

AN ORDINANCE
ESTABLISHING A
CODE OF ETHICS POLICY

BE IT ORDAINED BY THE LEGAL VOTERS OF THE TOWN OF ESSEX IN
LAWFUL TOWN MEETING DULY ASSEMBLED, THAT THE FOLLOWING
ORDINANCE BE ESTABLISHED BY THE TOWN OF ESSEX:

Section I. Declaration of Policy and Purpose

Public office is a public trust. The trust of the public in their elected and appointed officials is essential for government to function effectively. In order to keep that trust, there is established herein a Code of Ethics for all Town officials, officers, employees, personnel and persons, entities, consultants or others persons having dealings with the Town of Essex.

The purpose of this code is to establish suitable ethical standards for such individuals by prohibiting acts not in the best interests of the Town of Essex.

Section II. Applicability

1. This Code is adopted pursuant to the provisions of CGS 7-148h and shall apply to all officials, officers, employees, and personnel of the Town of Essex, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions in the performance of their duties.
2. The Code shall also be applicable to all persons, entities, consultants or others in their dealings with the Town of Essex.
3. All of the above shall be referred to hereinafter as “persons governed by this Code”.
4. This Ordinance shall not be applicable if it conflicts in whole or in part with any labor agreement, Federal or State statute or municipal law or regulation.

Section III. Distribution of Code

1. The Town Clerk shall cause a copy of this Code, and the regulations adopted pursuant to the provisions of this Code, to be furnished to all officials, officers, employees, and personnel of the Town of Essex, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions within sixty (60) days after enactment of this ordinance.

2. The Town Clerk shall furnish each person newly governed by this Code a copy before entering the duties of office or employment. The Town Clerk shall maintain a record of the persons to whom the Code has been furnished and the manner in which the Code was furnished.

3. Officials, officers, employees, and personnel of the Town of Essex responsible for the awarding of any contract with the Town of Essex shall cause a copy of this Code, and the regulations adopted pursuant to the provisions of this Code, to be furnished to the person or entity governed by this Code by virtue of the contract.

4. A person or entity governed by this Code who shall not have been furnished a copy of the Code or the regulations adopted pursuant to the provisions of the Code, is not relieved of the obligation to comply with its terms.

Section IV. Definitions

As used in this Code, the following words or phrases, unless a different meaning is required by the context or is specifically prescribed, shall have the meanings indicated. All other words and phrases shall have their ordinary meaning in the context of the Policy and Purpose of this Ordinance.

Code

means this Code of Ethics.

Employee

means any person whose relationship is so defined for Federal or State Income Tax purposes. An employee may also be an official or officer.

Entities

means any organization or association of any type, including business organizations, whether incorporated or otherwise, which shall be deemed a "person" for purposes of this Code.

Financial Interest

means pecuniary or material benefit accruing to a person governed by this Code.

Gift

means anything of economic value. For the purposes of this Code a gift shall not be deemed to include:

1. A lawful political contribution, donation or payment as defined under the Connecticut General Statutes.
2. A certificate, plaque or other ceremonial award.

3. A rebate or discount on the price of anything of value made in the ordinary course of business, and available qualifying members of the public without regard to that person's status with the Town of Essex .
4. Food or beverage provided at an event or business meeting in which the public official or public employee participates in their official capacity.
5. Non-monetary gifts on giving occasions recognized by the general public, including for the purpose of examples and not of limitation: Christmas, Chanukah, birthdays, the birth or adoption of a child, weddings, First Communion, Confirmations or Bar/Bat Mitzvahs. Such gifts shall not have a value per individual recipient of more than \$25 nor shall there be more than two such gifts per individual recipient from a single donor per calendar year.
6. Tips, or like gratuities, received by employees of the Town, where receipt of such tips is specifically permitted in writing either in the job description of such position or by written policy of the employing agency applicable to the employee.

In the event of doubt, the recipient or recipients should seek an advisory opinion under Section IX.g hereof.

Official, Officer

means any person holding elective or appointive office in the government of the Town including a regular or alternate member on or any board, commission, committee or agency.

Personnel

means any person who is not an Official, Officer or Employee of the Town as herein defined but who has a contractual, stipended or volunteer relationship with the Town.

Personal Interest

means any interest, other than financial, which would affect the action of the official or employee, except where that interest is based on the responsibility of his/her town office or employment. Membership in or affiliation with a social, fraternal, charitable, service, educational, religious, governmental or similar organization is not deemed to automatically constitute a personal interest.

Probable Cause

means a finding that the facts of the matter complained of, warrant a reasonable person to believe that a person governed by this Code has violated, or may by continuation of the conduct complained of, violate this Code. The finding must be more than a mere suspicion, but may be based upon less than a preponderance of the evidence or beyond a reasonable doubt.

Respondent

means any person accused of violating this Code.

Section V. Conflict of Interest

1. Persons governed by this Code shall not engage in or participate in any business or transaction, nor have an interest, direct or indirect, which is incompatible with the proper discharge of that person or persons' official duties in the public interest, or would tend to impair that person or persons' independent judgment or action in the performance of that person or persons' official duties.

2. Any person who may have an interest, direct or indirect, which is incompatible with the proper discharge of that person or persons' official duties in the public interest, or would tend to impair that person or persons' independent judgment or action in the performance of that person or persons' official duties, shall disclose for the record of the proceedings that the person has or may have a conflict of interest, prior to the decision, transaction or contract. Disclosure of the nature of the conflict may, but need not, be disclosed for the record of the proceedings.

3. Persons governed by this Code shall not be financially interested or have any personal interest, in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by the board, agency or commission of which that person or persons is or are a member, or of which that person or persons is or are an employee(s). It is further provided, notwithstanding the above, that no member of the Board of Selectmen of the Town of Essex and no member of the Board of Finance of the Town of Essex shall be financially interested, or have any personal interest, either directly or indirectly, in any contract or purchase order for any supplies, materials equipment or contractual services furnished to or used by any board, agency, or commission of the Town of Essex.

4. Persons governed by this Code shall refrain from voting upon or otherwise participating in any matter on behalf of the municipality if he/she, or a member of his/her immediate family, has a financial or personal interest in the decision, transaction or contract, including but not limited to the sale of real estate, materials, supplies or services to the Town of Essex.

5. Persons governed by this Code shall not accept or receive, directly or indirectly, from any person or entity to which any contract or purchase order may be awarded by the Town of Essex or any of its boards, agencies or commissions, any money, rebate or gifts as herein defined, or any promise, obligation, or contract for future reward or compensation.

6. Persons governed by this Code who have a financial or personal interest in any

decisions, transactions or contract with the Town, including but not limited to the sale of real estate, materials, supplies or services to the Town, on which that person or persons may be called upon to act in that persons official capacity shall not vote or otherwise participate in the decision and/or transaction on behalf of the Town.

7. Persons governed by this Code shall not request or permit the use of Town owned vehicles, equipment, facilities, materials, or property for personal convenience or profit, except when such are available to the public generally, or provided for in an officially approved Town policy in the interest of the Town.

8. Persons governed by this Code shall not engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the primary and proper discharge of their official Town duties.

Section VI. Acceptance of Gifts, Gratuities and Favors Prohibited.

No person governed by this Code shall accept or solicit any gift as herein defined, whether in the form of service, loan, thing, promise or any other form, from any person who, to his or her knowledge, is interested, directly or indirectly, in any manner whatsoever, in business dealings with the Town.

Section VII. Agents/Consultants/Contractors to the Town

1. No consultant, agent or contractor of the Town shall have or represent an interest in any action or proceeding against the interest of the Town, without the Town's consent.

2. No agent, consultant or contractor of the Town may represent anyone other than the Town concerning any matter in which they participated personally and substantially.

3. No agent, consultant or contractor of the Town shall disclose confidential information learned while performing their duties for the Town nor shall they use such information for the financial or personal interest of themselves or others.

Section VIII. Enforcement

1. The Board of Selectman shall have primary responsibility for the enforcement of this Code and shall act as the Town's Ethics Board. The Ethics Board shall have the duties and obligations as set forth in this Code and in the Regulations adopted pursuant to this Code.

2. Within thirty (30) days of the effective date of this Ordinance, the Ethics Board shall appoint an Ethics Review Committee of not less than one nor more than three members

who need not be electors or residents of the Town of Essex. No members of the Board of Selectmen may be a member of the Ethics Review Committee. The Ethics Review Committee shall serve at the pleasure of the Ethics Board and vacancies arising for any reason may be filled only by the Ethics Board.

3. Within ninety (90) days of appointment, the Ethics Review Committee shall adopt Ethics Code Regulations consistent with the requirements of the provisions of this Code and any other applicable law or regulation. The regulations shall be transmitted to and become effective ten (10) business days after filing the Regulations with the Town Clerk. Amendments to the Regulations shall be made in the same manner.

Section IX. Procedures, Complaints, Notices, Hearings

1. The Regulations adopted by the Ethics Review Committee shall provide for procedures and regulation for the initiation and handling of a complaint consistent with the requirements of this Ordinance and other applicable law. The Ethics Review Committee may adopt regulations for the purpose of reviewing and investigating anonymous complaints, but in the absence of such regulations, no anonymous complaints will be reviewed or investigated under this Ordinance. The Ethics Review Committee may designate an independent investigator, who may, but need not be, an elector or resident of the Town of Essex, for the purpose of reviewing or investigating complaints referred to the investigator by the Ethics Review Committee. The investigator shall serve at the pleasure of the Ethics Review Committee.

2. Said procedures and regulations shall include a form for the initiation of complaints. The complainant must sign said complaint under penalty of false statement, and must have a good faith basis for said complaint. Complaints of violation of the Code of Ethics shall only relate to unethical behavior as defined herein, concerning any person(s) governed by this Code.

3. Information in the complaint shall include the name of the person governed by this Code and the name of who is accused (“respondent”), and also specific acts alleged to constitute the violation of this Code.

4. The Regulations shall provide for a procedure whereby the complaint shall be first evaluated by the Ethics Review Committee to determine if it is in in proper form and that the allegations, if true, would constitute a violation of this Code; and a procedure for dismissal of the complaint for either of the foregoing reasons and for notice of the dismissal and the reasons therefore to the complainant.

5. The regulations shall provide a procedure for the Ethics Review Committee to promptly determine whether there is probable cause to believe a violation of this Code

has occurred. If there is a finding of no probable cause, the regulations shall provide a procedure to notify the complainant and the respondent of the finding and a summary of the reasons therefore and the complaint and the record of investigation shall remain confidential.

6. If there is a finding of probable cause the regulations shall provide a procedure whereby the complainant and the respondent shall be advised of its findings and a summary of the reasons therefore. The regulations may provide a procedure for a period of time for resolution of the complaint by stipulation, agreed settlement or consent order, and in such event the extent to which the matter shall remain confidential.

7. Where probable cause is found, and the complaint is not otherwise resolved, the regulations shall provide for a public hearing before the Ethics Board, and the procedures for the conduct of the hearing consistent with due process and all applicable law.

8. In the event the complaint involves a one or more members of the Ethics Board or the Ethics Review Committee, the regulations shall provide a procedure for replacement of the member or members of the Ethics Board or Ethics Review Committee for action on the matter.

9. The Regulations shall provide:

- a. Rules for the conduct of the Public Hearing to provide due process to all participants;
- b. That the Ethics Board shall make written findings;
- c. That the Ethics Board shall make a written decision;
- d. The sanctions legally available to the Board and the manner of imposition of those sanctions;
- e. The required vote for findings, the decision and the imposition of sanctions;
- f. Rules regarding time limitations, notice, maintenance and access of records, and such other rules and regulations required for due process; and
- g. Procedures for persons subject to the Code to obtain an advisory opinion from the Ethics Review Committee, the protection provided by such opinion and the record, confidentiality in whole or in part, or otherwise, for such opinions.

Section X. Appeals

Any person aggrieved by any final decision of the Ethics Board may appeal such decision in accordance with the provisions of Section 4-175 or Section 4-183 of the Connecticut General Statutes.

Section XI. General limitation.

In the event that the provisions of this Code or the Regulations adopted pursuant hereto are inconsistent with any remedies and procedures specified in applicable state and federal law, personnel rules, contract grievance rules, or other work rules, policies and procedures, the latter shall govern.

Section XII. Validity

If any part of this Code or any of the Regulations adopted pursuant hereto is determined to be invalid, such determination shall not affect the validity of any other part and the remainder shall remain in full force and effect. All ordinances or parts thereof inconsistent with this Ordinance are hereby repealed.

Section XIII. Effective Date

This Code shall take effect upon its adoption by Town Meeting and thirty (30) days after publication of a summary thereof in accordance with Connecticut General Statutes Section 7-157 in a newspaper having general circulation in the Town of Essex and filed in the office of the Town Clerk for public inspection.

Adopted at a Special Town Meeting held July 1, 2015
Published in the Valley Courier July 16, 2015