

Chapter 28
ETHICS, CODE OF

GENERAL REFERENCES

Conflicts of interest — See Charter, Section 1107.

ARTICLE I
Generally

§ 28-1. Short title.

This chapter shall be known and referred to as the "Code of Ethics of the Town of Southington."

§ 28-2. Statement of purpose. [Added 4-24-2006]

Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and employees affects every citizen of the Town of Southington, and it must be based on honest and fair deliberations and decisions. This process must be free of threats, favoritism, undue influence and all forms of impropriety so that the confidence of the public is not eroded. With this code, the Town of Southington seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.

§ 28-3. Definitions. [Amended 4-24-2006]

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGENCY — Includes all departments, boards, commissions, committees and the Town Council.

COMPLAINANT — The person filing a written, verified complaint under oath.

EMPLOYEE — Each and every person employed by the Town in any capacity, whether as a classified employee, unclassified employee, full-time employee or part-time employee, and all employees of the Board of Education.

FINANCIAL INTEREST — Any interest with a monetary value of \$100 or more or which generates a financial gain or loss of \$100 or more per person in a calendar year.

MEMBER OF ANY BOARD, COMMISSION OR AGENCY — Each and every person appointed by the Town Council or by the Town Manager to any authority, board, commission or agency, whether autonomous or not, of the Town.

PERSONAL INTEREST — An interest in any action taken by the municipality in which an individual will derive a nonfinancial benefit or detriment which will result in the expenditure of municipal funds.

PRIVATE FINANCIAL INTEREST — Includes the private financial interest of oneself, a spouse, minor child, a person who is or has been one's partner or joint venturer within the prior year, of a Town official, member of a board, commission or agency, employee of the Town, or an interest in which the official, member of a board, commission or agency or employee is a silent partner or has an interest held by a trustee.

REFERRAL INDIVIDUAL OR BOARD — The person or board to whom a report by the Board of Ethics has been referred pursuant to § 28-14.

RESPONDENT — The person against whom an allegation has been made pursuant to

the provisions of this chapter.

TOWN OFFICIALS — Members of the Town Council, the Town Manager, Deputy Town Manager, Town Attorney, assistant Town Attorney, boards, commissions, committees, departments or other agencies, whether the officers, officials and members are elected or appointed, but shall not mean Justices of the Peace.

§ 28-4. General rules of conduct. [Amended 4-24-2006]

No Town official, member of a board, commission or agency or employee of the Town shall engage in any business or transaction or shall have a private, financial or personal interest, direct or indirect, which is in conflict with the proper discharge of his/her official duties in the public interest and would tend to impair his/her independence or judgment of action in the performance of his/her official duties. This section shall not apply to contracts awarded to the lowest responsible bidder after public advertisement, nor to governmental tasks which are merely ministerial in character.

§ 28-5. Conflicts of interest. [Amended 4-24-2006]

- A. Private business or professional enterprise. A conflict of interest exists if the officer, official, employee or member of any Town agency has a private financial or personal interest in the outcome, or is the owner, shareholder, member, partner, officer, employee or other participant of, or in, a private business or professional enterprise that will be affected by the outcome of any matter under consideration before him/her.
- B. Speculative or investment activities. A conflict of interest exists if the officer, official or employee, or any member of any Town agency has such interest in any matter as it relates to investment activities that shall benefit from use of confidential information gained from such officer, official or employee, or member of any Town agency.
- C. Town employees (full time, part time). All full-time employees of the Town shall devote all their time and effort in the fulfillment of their assigned duties during those hours when it is customary for the Town to conduct business, such hours to include meetings held outside of customary business hours where the employee's presence is necessary to facilitate Town business and is job-related. All part-time employees of the Town shall be available at times necessary to fulfill their duties or at the convenience of their supervisor or other departments to facilitate Town business during hours in which Town business is customarily conducted. No full-time employee shall engage in any activities other than Town business during hours in which the Town customarily conducts its business, unless such activity conforms with established Town policies set by any board, commission or agency, the Deputy Town Manager, or the Town Manager. The Town Planner, Assistant Town Planner, Town Engineer or Assistant Town Engineer, Building Inspector or Zoning Enforcement Officer is specifically prohibited from engaging in any activity (in which he/she has a personal interest or private financial interest as herein defined) relating to the purchase and sale or development of land or buildings (other than his/her personal residence).
- D. Duty to disclose and abstain. Any Town official, member of a board, commission

or agency or employee who has a private financial or personal interest in any action, legislative or otherwise, by any Town agency and who is a member of, participates in discussion with, or gives an official opinion to such Town agency, shall disclose on the written records of such agency the true nature and extent of such interest and refrain from any comment or vote on the matter and remove himself/herself from the panel until the matter has been dispensed. The failure of any officer, official, or employee or member of any Town agency to disqualify himself or herself from action if any situation where a conflict of interest exists shall constitute a violation of this chapter. This section shall not apply to:

- (1) Contracts awarded to the lowest responsible bidder after public advertisement;
 - (2) Unpaid appointed officials during a declared state of emergency;
 - (3) Matters requiring disclosure to, or approval by, a court; or
 - (4) Interests by virtue of ownership of stock in a publicly held corporation in an amount less than 10% of the corporation's issued and outstanding stock.
- E. Litigation. No Town official, member of a board, commission or agency or employee of the Town shall appear in behalf of private interests before any agency of the Town nor shall he/she represent private interests in any action or proceeding against the Town in any litigation when such appearance or representation would be in conflict with or would tend to impair his/her independence of judgment and action in the performance of his/her official duties as such Town official, member of a board, commission or agency, or employee. An elected Town official shall not appear before a Town agency (except on behalf of constituents in the course of performing his/her duties as a representative of the electorate) when such appearance or representation would be in conflict with or would tend to impair his/her independence of judgment and action in the performance of his/her official duties as such Town official. Any Town official, member of a board, commission or agency, or employee may appear before a Town agency in the performance of official, public or civic obligations.

§ 28-6. Use and disclosure of confidential information. [Added 4-24-2006]

- A. Except as may be required by law, no Town official, member of a board, commission or agency, or employee of the Town shall disclose any confidential information concerning the property, government business or affairs of the Town and neither shall he/she use such information to advance the private financial interest of himself/herself or others.
- B. No Town official, member of a board, commission or agency, or employee of the Town shall knowingly, with the intent to deceive, disseminate any false information or make false statements.

§ 28-7. Whistle blower protection. [Added 4-24-2006]

No Town official, member of a board, commission or agency, or employee of the Town shall be dismissed or reprimanded or treated in any manner inconsistent with his/her abilities prior to the disclosure in any way, if such person in good faith and reasonable belief files a complaint under this code. It is the express intent of this section to allow

the code to function without fear of retribution to the complainant.

§ 28-8. Gifts and favors. [Amended 4-24-2006]

- A. No public officials or employees, spouse or minor child of the public officials or employees, shall accept or solicit any gift of financial interest, whether in the form of money, thing, favor, loan or promise, which would not be offered or given to him/her if he/she did not hold such appointment, office or employment.
- B. Use of Town property. No Town official, member of a board, commission or agency, or employee shall request or permit him/her or others the use of Town-owned or -leased vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies for the use of such Town official, member of a board, commission or agency, or employee in the conduct of Town business.
- C. All citizens to be treated equal. No Town official, member of a board, commission or agency, or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.
- D. Patronage. No Town official, member of a board, commission or agency, or employee of the Town shall promise any employment, contract or any relationship with the Town of Southington as an exchange for political support or political donations.
- E. Quid pro quo. No Town official, member of a board, commission or agency, or employee of the Town shall solicit or accept any gift from any person, company or entity which to his/her knowledge is interested in any pending matter within such person's official duties and responsibility.

§ 28-9. Distribution of Code of Ethics.

The Town Clerk shall cause a copy of this chapter to be distributed to every Town official, member of any board, commission or agency, employees (classified, unclassified, full time or part time and all employees of the Board of Education), within 90 days after enactment of the ordinance from which this chapter derives. Each Town official, member of any board, commission or agency, employees (classified, unclassified, full time or part time and all employees of the Board of Education) thereafter shall be furnished a copy before entering upon the duties of his/her office or employment. A signed receipt for all copies shall be returned to the Town Clerk and retained on file.

ARTICLE II
Board of Ethics

§ 28-10. Created.

There is hereby created a Board of Ethics, which shall be charged with the administration of the Code of Ethics.

§ 28-11. Composition; terms; qualifications.

A. The Board of Ethics shall be composed of four regular members and two alternate members, all of which shall be resident electors, to be appointed by the Town Council. Of the four regular members initially appointed, two shall be appointed for a term of three years and two shall be appointed for a term of two years. No political party shall have as appointees more than two regular members and one alternate member on the Board of Ethics at one time. All subsequent appointments to the Board of regular members and all appointments of alternate members shall be for a term of three years. Any member having served for six years in succession shall be ineligible for reappointment to the Board. For individuals filling a vacancy, successive years of service will commence with the next appointment period. All members shall be electors of the municipality. No member shall: **[Amended 5-8-2017]**

- (1) Hold or campaign for any public office;
- (2) Hold an officer's position in any political party or political committee; or
- (3) Serve as a member of any other municipal agency.

B. If a regular member of the Board of Ethics is absent or is disqualified, the Chairman of the Board shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal in number of times as possible. If an alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

§ 28-12. Officers; terms; meetings.

A. Officers. At its annual meeting, the Board of Ethics may elect a Chairperson, Vice Chairperson and Secretary to serve consistent with tenure of appointment until a successor shall be elected.

B. Meeting. The annual meeting of the Board of Ethics shall be held on the third Wednesday of each January. At such meeting, a schedule for any further meeting for that year shall be set, and election shall be held. Other meetings may be called by the Chairperson, Vice Chairperson or any two members of the Board.

§ 28-13. Authority to adopt rules and regulations; public record. [Amended 4-24-2006]

The Board of Ethics shall adopt rules of procedure, orders and regulations which it deems necessary to carry out the intent of § 7-479 of the Connecticut General Statutes and this chapter. All such rules, orders and regulations and amendments thereto and all

proceedings of the Board shall be filed in the office of the Town Clerk and available for public inspection.

§ 28-14. Investigation of conduct. [Amended 7-11-1995; 4-24-2006]

- A. Authority. The Board of Ethics shall have power to investigate a written complaint concerning official conduct of any department or agency of the Town government or of any Town office, member of any board, commission or agency, or employee thereof. The Board shall not consider any complaint alleging a violation of the Code of Ethics established herein unless such complaint is received by the Board within a period of two years from the date on which the act or omission complained of should have been, with reasonable diligence, discovered by the complainant.
- B. Form and content of complaint. The Board of Ethics shall receive complaints from any person of any violation of the Code of Ethics and shall investigate each complaint and may hold a hearing thereof if, in the opinion of the majority of the Board, the complaint warrants a hearing. Any complaint received by the Board must be in writing and must be a verified complaint signed under oath affirming the truth of the allegations.
- C. Initial determination. Upon receiving a verified complaint under oath of an alleged violation of the Code of Ethics, the Board of Ethics shall, within 15 days, notify in writing the respondent advising the concerned party of the specific nature of the complaint made and being investigated by the Board. Upon receipt of such notice, the party so notified shall have the right to demand a hearing by the Board within 15 days.
- D. Dismissal. If the Board of Ethics determines that the verified complaint does not allege fact sufficient to constitute a violation of the Code of Ethics or the Charter of the Town, it shall dismiss the complaint and notify the complainant and the respondent.
- E. Hearing. If the Board of Ethics decides that a hearing is required, or the respondent demands a hearing, such hearing shall afford the respondent the right to be represented by counsel, the right to cross-examine anyone testifying against him/her, to answer any complaint made of his/her conduct, and to present evidence in his/her own behalf. The respondent shall also have the right to face the complainant. No hearing may be conducted with less than three Board members in attendance.
- F. Subpoenas. Pursuant to § 7-148h of the Connecticut General Statutes, and any amendments or substitutes therefor, the Board of Ethics shall have power to issue subpoenas or subpoenas duces tecum, enforceable as therein provided. The Board of Ethics shall have the power to administer oaths, compel attendance of witnesses and require the production of books and papers. At any such hearing, all proceedings shall be recorded by a duly licensed stenographer.
- G. Decision. A finding of a violation shall require three affirmative votes.
- H. The written complaint and the record of the investigation and evaluation thereof shall be confidential until the Board of Ethics makes a finding of probable cause except upon request of the respondent.

- (1) If the evaluation is confidential, any information supplied to or received from the Board shall not be disclosed to any third party by a subject of the evaluation, a person contacted for the purpose of obtaining information or by a Board or staff member. No provision of this subsection shall prevent the Board of Ethics from reporting the possible commission of a crime to the Chief State's Attorney or other prosecuting authority.
- (2) Not later than three business days after the termination of the investigation, the Board shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making that finding. The Board shall publish its finding upon the respondent's request and may also publish a summary of its reasons for making such finding.
- (3) The Board shall make public a finding of probable cause not later than five business days after the termination of the investigation. At such time, if the Board finds probable cause, the entire record of the investigation shall become public.
- (4) If the Board makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent and except that some or all of the record may be used in subsequent proceedings. No complainant, respondent, witness, designated party, or Board or staff member shall disclose to any third party any information from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. If such a disclosure is made and it is concluded that the complainant is the source of the disclosure, then the Board may dismiss the complaint. **[Amended 5-8-2017]**

§ 28-15. Report of findings. [Amended 7-11-1995; 4-24-2006; 10-9-2012; 12-9-2013; 5-8-2017]

- A. If the Board of Ethics makes a finding of a violation of this Code, it may issue punishment by:
- (1) Public censure and reprimand;
 - (2) In the case of a public employee not under a collective bargaining agreement, recommend dismissal from employment or suspension from employment without pay;
 - (3) In the case of an appointed official, recommend dismissal from his or her appointment.

§ 28-16. Right to appeal. [Amended 7-11-1995; 5-8-2017]

Any respondent aggrieved by the decision of the Board regarding a finding of a violation may within 30 days take an appeal to the Superior Court for the Judicial District of New Britain. If the aggrieved respondent is successful in his appeal, then the Town of Southington shall reimburse reasonable attorney's fees to the aggrieved respondent in an amount not to exceed \$10,000.

§ 28-17. Consultation with Town Attorney; confidentiality.

- A. Any person subject to the provisions of this chapter may request in writing an advisory opinion from the Town Attorney as to whether any activity contemplated by such person would be in violation of the provisions of this chapter.
- B. Any request for opinions, and the opinions rendered therein, shall be confidential and shall not be open to public inspection or disclosure without the written consent of the person requesting the opinion.
- C. All newly elected and appointed officials shall meet with the Town Attorney within 30 days of their election or appointment to review the ethics ordinance. **[Added 5-8-2017]**

ARTICLE III
Financial Disclosure
[Added 5-8-2017]

§ 28-18. Statement of financial disclosure.

A. Each elected public official and nonunion public employee will be required to file an annual financial disclosure form, by December 1 of each year, of the following applicable sections:

(1) Section 1.

- (a) Any C corporation holdings of more than 5% of voting stock.
- (b) Any S corporation holdings of more than 5% of voting stock.
- (c) Any LLC, LLP and/or Doing Business As (DBA) membership in which they are personally a member and such entity(ies) conducts any for-profit business within and/or with the Town of Southington. Such a listing will exclude property that is owned in a sole proprietorship or partnership where the personal names of such ownership is/are filed with the Town Clerk and readily accessible to the public.
- (d) Any real estate, including leases owned by the Town official or any entity with which they are associated, that is located in the Town of Southington.
- (e) All disclosed items under this section shall include the person completing the form as well as his or her spouse and immediate family (household) members.
- (f) This section will state the type of business conducted for each disclosed entity that is conducted within or with the Town of Southington.
- (g) Elected public officials and nonunion public employees that do not have any mandatory disclosures to list under this section will write "Nothing to disclose under Section 1."

(2) Section 2.

- (a) The employer(s) and/or self-employment of the elected public official and nonunion public employees, his or her spouse, or immediate family (household) members only.
- (b) All employment disclosed under this section will state the type of business conducted for each disclosed employer/self-employment and any activity that is conducted within or with the Town of Southington.
- (c) Elected public officials and nonunion public employees that do not have any mandatory disclosures to list under this section (e.g., retired with no other employment and/or self-employment) will write "Nothing to disclose under Section 2."

- B. Values of disclosures are not and will not be part of the disclosure process.
- C. The completed financial disclosure form will:
 - (1) Be sworn to by the Town Clerk under penalty of false statement and other sanctions that may be imposed.
 - (2) Be filed with the Town Clerk's office and accessible to the public.
 - (3) Be updated within 45 days by the elected public official or nonunion public employee if a change in disclosure status occurs under Section 1 or Section 2.
- D. The financial disclosure form does not release an elected official or nonunion public employee from other conflicts of interests, where his or her position or public trust could be used for personal enrichment.
- E. Failure by a Town official to comply with this section shall be sufficient cause where allowed by law to remove such Town official from office.