

Draft Code of Ethics for North Haven

Introduction

There is nothing more important to a town's government than its ethics. Good government can come only from people who act ethically, that is, in the best interests of the town rather than in their own best interests. Competence is also important, but only ethical officials and administrators will hire and promote the most competent employees rather than their family and friends and friends of friends, and only ethical leaders will make sure that taxes are collected fairly and spent fairly and efficiently. Ethical leaders will let job applicants know the town has a good ethics program, and this will cause those who put themselves first to look elsewhere for a job. And ethical leaders will act openly and will encourage participation by town residents.

Ethical leaders do not hide the truth from town residents, and this includes the disclosure of conflicts between their personal interests and the interests of the town, which nearly all officials and administrators have now and then. It is these conflicts that form the core of this code. In fact, some towns call this sort of law a Conflicts of Interest Code.

There are three principal reasons that conflicts of interest are important to town governments. First, undisclosed conflicts of interest undermine the impartiality with which officials and employees are supposed to make decisions for the town. Second, biased or apparently biased decision-making undermines the public's trust in its government. And third, conflicts that are neither disclosed nor dealt with properly often result in corruption. The goal of an ethics code is not to penalize conflicts of interest, but to make them public and to help officials and employees manage them so that they do not undermine impartial decision-making nor undermine the public's trust in its public servants.

A government scandal creates the best opportunity for writing or changing a town's ethics code. People are angry and politicians have a harder time saying No. Usually, however, changes are limited to areas related to the particular offenses, and most public scandals involve crimes that go beyond the scope of an ethics code.

Therefore, we must make sure that changes to our ethics code are not simply face-saving, but instead sincere and thorough.

Certain provisions of this code that may seem expendable will not seem that way after serious consideration and discussion. For example, the most comprehensive ethical requirements have little value if a town's Board of Ethics has no teeth, that is, if it cannot enforce the code but can only make recommendations to elected officials, as is the case currently in North Haven, where the Board of Ethics can only make recommendations to the Board of Selectmen. Since elected officials, those whom they appoint, and their friends and enemies constitute the great majority of the people who will be brought before an Board of Ethics, involving these people at the end of the process effectively makes the entire process a political one. The current situation announces to everyone, in and out of the government, that those who are friendly with elected officials are likely to get away with unethical conduct. Therefore, citizens will be less likely to file ethics complaints, and officials will be less likely to follow the Code's requirements. The fact that elected officials like to have the final say is itself a conflict of interest, because it is certainly not in the public interest to give them this final say. The more independent the Board of Ethics, the more it will be trusted by town residents, the less it will be used for political purposes, and the more respect its decisions will be given.

Politicians often focus their condemnation of ethics codes on disclosure statements. They insist that forcing people to disclose their interests will prevent people from getting involved in town government. But the disclosure statements in this Code are far from what U.S. Senators are required to file. No one is being asked to disclose how wealthy or poor they are. They are only being asked to say who their employer is (not what they're paid), what local companies they have financial interests in (not how big their interest is), and what land they own in town. The only people who will truly mind disclosing this information are those who have so many interests or so much land in town, that they probably would face many conflicts of interest and, therefore, should probably not be involved in town government, except in areas that do not deal with businesses, developers, or contractors.

Municipal officials and employees should not be expected to be all-knowing saints. The basic rule of any ethics code is simple and requires little knowledge: If you're not sure there is a conflict that could be seen as affecting your decision, ask for

advice or withdraw from dealing with the particular matter. If doing anything seems to be wrong or to look wrong, ask for advice or just don't do it.

A bad ethics code, one that seems to be something it is not, such as the one North Haven has today, is actually worse than no ethics code at all. The truly essential elements of an ethics code are (i) that it be clear and comprehensive, providing clear guidance across the board; (ii) that it provide for three kinds of sensible disclosure of interests: an annual disclosure statement, disclosure when a conflict arises (transactional disclosure), and disclosure when someone bids for business or requests a permit (applicant disclosure); disclosure is the democratic way of letting people know about conflicts of interest; (iii) that it provide effective administration, featuring an independent Board of Ethics with teeth, which gives swift advisory opinions, which has a monopoly on interpreting and enforcing the code, which can give waivers for exceptions, and which provides training for all town officials and employees, as well as everyone who does business with the town; and (iv) that it provide whistle-blower protection so that town employees (the people who know what's going on) and others will be able to report violations without endangering their jobs and pensions, and so that town officials will know their violations might be reported and, therefore, will be more likely to act consistent with the code (that is, their personal interest in protecting themselves will be closer to the public interest in their acting fairly and impartially).

The language in this Code is intentionally as readable as possible. Many lawyers will say that the language must be more formal, but the question is, Which is more important: the ability of ordinary town employees and officials to understand a code that guides their ethical conduct, or the prejudice lawyers have for familiar, usually more complex or vague terminology?

The provisions of this Code have been organized to make it easier for town officials and employees to understand what is expected of them. First come the more general, aspirational guidelines, which are not enforced by the Board of Ethics (however, people may ask the Board of Ethics for advisory opinions concerning these guidelines). Second come the conflict of interest rules that are enforced by the Board of Ethics. Next come the disclosure rules, exceptions, and penalties for violation of the code. And then comes the Definitions section. Wherever a defined term is used, there is a star, so that people can check the definition of the term.

The second half of the Code deals with the Code's administration. The provisions of this part contain the necessary information about filing an ethics complaint, the formation, powers, and responsibilities of the Board of Ethics, and the enforcement of the Code. This part comes last because it is primarily of interest to people who want to file a complaint. Most people will never have to read this part, which is the most technical part of the code, primarily due to the requirements of due process, that is, protections of the rights of those against whom ethics complaints are brought.

This code is based on a model code written by Mark Davies, which originally appeared in "Keeping the Faith: A Model Local Ethics Law—Content and Commentary," 21 *Fordham Urban Law Journal* 61 (1993). Mr. Davies is Executive Director of the New York City Conflicts of Interest Board and Adjunct Professor of Law at Fordham University School of Law. I thank him both for the excellent work he did, and for permitting me to build on this work.

Robert Wechsler

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Draft North Haven Code of Ethics

Declaration of Policy, Purpose, and Obligations

The proper operation of our town's government requires that public officials and employees act as public servants: courteous, impartial, and responsible to the town's electors (the term in Connecticut for those who can vote at town meetings, including residents as well as taxpaying non-residents with property in the town) and their children; that they act as fiduciaries entrusted with and responsible for the property and resources of the community; that they make governmental decisions and policies in the proper channels of the government structure, free of coercive or other improper influence; and that they use their office and employment in the best interests of the town rather than for personal interests, whether their own interests or those of their family, friends, or business and political associates. It is central to gaining and retaining the public's trust in our town's government that public servants seek to avoid even the appearance of impropriety. Fulfilling one's role as public servant sometimes means sacrificing rather than gaining opportunities.

This code focuses on conflicts of interest, which affect the decisions of government officials and employees in ways that are unfair both to the community and to individuals and entities who lack special relationships with individuals in our town's government. When government officials make decisions that are not or do not appear to be impartial, this seriously undermines the public's trust.

While the vast majority of municipal officials are honest, being honest is not enough. It is important that honest officials understand the conflicts they confront every day, appreciate their fiduciary obligations to town electors, and recognize the importance of preventing conflicts from occurring, disclosing conflicts when they arise, and withdrawing from any involvement in a matter where they have a conflict (recusal).

When it comes to disclosure and recusal, nothing is more important to public trust than having public servants err on the side of disclosing every possible conflict and recusing themselves even where they feel certain they can act impartially.

The purposes of this Ethics Code are:

- (a) To establish standards of ethical conduct – especially those dealing with conflicts between personal interests and those of the town – for town officials, employees, consultants,* candidates, and those who do business with the town;
- (b) To provide clear guidance with respect to such standards;
- (c) To promote public confidence in the integrity of our town’s governance and administration;
- (d) To provide for the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of our town’s government to town electors; and
- (e) To provide for the fair and effective administration and enforcement of this code.

There is more to ethical conduct than what is covered by this code, which consists primarily of enforceable rules about conflicts of interest. The town government must also provide a healthy ethical environment, with positive means of encouraging ethical behavior among its public servants. And individuals - especially community leaders - must commit themselves to thinking and acting ethically.

Ethical conduct depends on thinking about one's acts not in terms of what is politically popular, best for oneself and one's colleagues, or even most effective and efficient, but in terms of what is in the best interests of town residents. Ethics is not just about enforceable rules, but also about democratic ideals and aspirational goals. Central to ethical action is respect for town residents (treating them as ends rather than as means) as well as self-respect (integrity, expecting the best of oneself).

There are expectations placed on those who govern and administer our town’s government, there are values to which our town’s officials and employees aspire, and there are obligations that our town’s officials and employees accept when they take their jobs or offices. This is especially true of elected officials and department heads, because they have accepted more responsibility for the decisions that are made.

The American Society for Public Administration's (ASPA) Code of Ethics is an excellent list of a government administrator's obligations, based on values rather than job description. These are the obligations our government leaders should be

reinforcing and to which individuals should be committing themselves. The ASPA Code is especially valuable because it is not the work of ethics specialists, but of government administrators themselves.

These values and obligations will not be enforced by the Board of Ethics, primarily they are difficult to describe concretely enough so that they can be enforced. And because this code is for unelected administrators, the provision requiring nonpartisanship should not be applied to elected officials who belong to political parties. However, these values and obligations should be expected by town residents and aspired to by public servants. Anyone who has questions about these values and obligations may seek clarification from the Board of Ethics as to how they apply to specific situations.

American Society for Public Administration Code of Ethics

I. Serve the Public Interest

- Exercise discretionary authority to promote the public interest.
- Oppose all forms of discrimination and harassment, and promote affirmative action.
- Recognize and support the public's right to know the public's business.
- Involve citizens in policy decision-making.
- Exercise compassion, benevolence, fairness, and optimism.
- Respond to the public in ways that are complete, clear, and easy to understand.
- Assist citizens in their dealings with government.
- Be prepared to make decisions that may not be popular.

II. Respect the Constitution and the Law

- Understand and apply legislation and regulations relevant to their professional role.
- Work to improve and change laws and policies that are counterproductive or obsolete.
- Eliminate unlawful discrimination.
- Prevent all forms of mismanagement of public funds by establishing and maintaining strong fiscal and management controls, and by supporting audits and investigative activities.
- Respect and protect privileged information.
- Encourage and facilitate legitimate dissent activities in government and protect the whistle-blowing rights of public employees.
- Promote constitutional principles of equality, fairness, representativeness, responsiveness, and due process in protecting citizens' rights.

III. Demonstrate Personal Integrity

- Maintain truthfulness and honesty and to not compromise them for advancement, honor, or personal gain.
- Ensure that others receive credit for their work and contributions.

Zealously guard against conflict of interest or its appearance: e.g., nepotism, improper outside employment, misuse of public resources, or the acceptance of gifts.

Respect superiors, subordinates, colleagues, and the public.

Take responsibility for their own errors.

Conduct official acts without partisanship.

IV. Promote Ethical Organizations

Enhance organizational capacity for open communication, creativity, and dedication.

Subordinate institutional loyalties to the public good.

Establish procedures that promote ethical behavior and hold individuals and organizations accountable for their conduct.

Provide organization members with an administrative means for dissent, assurance of due process, and safeguards against reprisal.

Promote merit principles that protect against arbitrary and capricious actions.

Promote organizational accountability through appropriate controls and procedures.

Encourage organizations to adopt, distribute, and periodically review the code of ethics as a living document.

V. Strive for Professional Excellence

Provide support and encouragement to upgrade competence.

Accept as a personal duty the responsibility to keep up to date on emerging issues and potential problems.

Encourage others, throughout their careers, to participate in professional activities and associations. Allocate time to meet with students and provide a bridge between classroom studies and the realities of public service.

This code is enacted pursuant to Section 7-148h of the Connecticut General Statutes and is not intended to authorize any conduct prohibited by that section.

Comment: The power to adopt an ethics code is provided in CGS §7-148(c)(10)(b). There are some specific conflict of interest rules in §7-148t. Allegations, confidentiality, and probable cause findings are provided for in §1-82a. A business with which an official or employee is associated is defined in §1-79(b). And the Freedom of Information Act is Chapter 14, §1-200 to 1-242. Why the Freedom of Information Act? Because it covers one of the most often abused conflicts of interest: between the public's right to know and the municipal official's desire to keep information hidden, for personal or political reasons.

Part A: Ethics Provisions

§100. General Conflict of Interest Provisions.

1. Conflict of Interest.

a. An official or employee* may not use his or her official position or office, take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows, or has reason to believe, may result in a personal* or financial benefit*, not shared with a substantial segment of the town's population, for any of the following persons or entities:

(a) himself or herself;

(b) a member of his or her household*, including a domestic partner* and his or her dependents, or the employer or business of any of these people;

(c) a sibling or step-sibling, step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse, or the employer or business of any of these people;

(d) an outside employer or business* of his or hers, or someone who works for such outside employer or business;

(e) a customer* or client*;

(f) a person or entity from whom the official or employee has received an election campaign contribution of more than \$200 in the aggregate during the past

election cycle (this amount includes contributions from a person's immediate family or business as well as contributions from an entity's owners, directors, or officers, as well as contributions to the official or employee's party town committee or non-candidate political committee);

(g) a substantial debtor or creditor; or

(h) a nongovernmental civic group, union, social, charitable, or religious organization of which he or she is an officer or director.

b. An official or employee* may not have an interest that will create a continuing or frequently occurring conflict with his or her governmental obligations.

Comment: The central point of an ethics code is that town officials and employees should not give anyone (including himself or herself) preference over others. There are other relationships that should be included in the above list, but cannot due to problems of defining them. These include romantic relationships short of domestic partnership, and close friends and associates.

The general rule is: If it looks to others as if you might be giving someone special treatment, or if it would look that way to others if they knew about the relationship, then you should not act with respect to that person or entity, and instead recuse yourself under subsection 3 below. It is important to give town residents confidence that their officials and employees are treating everyone the same, even when you believe that you can be totally impartial.

When a town official is also a town employee, this restriction applies to any matter that has to do with compensation and budgeting specifically for the department or agency in which the official is employed.

2. Incompatible Positions.

a. No official or employee* may hold positions in any government or political party whose duties are incompatible with discharge of his or her town government duties. No employee may hold an office in a political party.

b. A member of the board of selectmen or board of education also has a conflict of interest with respect to any labor contract to which he or she, or a member of his or

her household*, may be a party, and with respect to an appropriation to any town department or agency through which he or she, or a member of his or her household, is employed.

3. Recusal.

a. An official or employee* must refrain from acting on or discussing, formally or informally, a matter before the town, if acting on the matter, or failing to act on the matter, may personally* or financially benefit* any of the persons or entities listed in subsection 1 of this section. Such an official or employee should join the public if the recusal occurs at a public meeting, or leave the room if it is not a public meeting.

b. An official or employee must refrain from acting or discussing, formally or informally, a matter involving a person who appointed or recommended him or her for that position, if he or she is aware of such appointment or recommendation.

c. If a board or agency member is requested to recuse himself or herself with respect to a matter, for the reason that he or she has a conflict of interest, by (i) another member, (ii) a party to the current matter, or (iii) a member of the public who may be affected by a decision relating to this matter, this member must decide whether to recuse himself or herself.

If the member decides not to recuse himself or herself, the unchallenged members must consider any relevant evidence concerning such claimed conflict of interest, as defined in this code, and vote whether or not to allow the request and require that the member refrain from participating in the matter.

Comment: “Acting on and discussing, formally or informally” means that the official should withdraw from any involvement with the matter, including conversations, appearances at meetings or portions of meetings concerned with the matter, and voting on the matter, except, of course, at a town meeting or in a public referendum.

Sometimes inaction benefits an official or his or her close associates – for example, when a code enforcement official fails to cite her brother for a zoning violation. That is why this subsection prohibits an official’s inaction, as well as action, in certain circumstances.

See §101 for provisions concerned with the disclosure of a conflict pursuant to this subsection. Because disclosure in this sort of situation occurs at the time that a conflict becomes immediately relevant to an action or transaction to be taken by an official or employee, this is referred to as “transactional disclosure.”

4. Gifts*.

a. An official or employee*, his or her spouse or domestic partner*, child or step-child, parent, or member of his or her household*, may not solicit nor accept anything of value from any person or entity that the official or employee knows, or has reason to believe, has received or sought a financial benefit*, directly or through a relationship with another person or entity, from the town within the previous three years, or intends to seek a financial benefit in the future. Nor may an official or employee solicit or accept anything of value from anyone, including but not limited to a gift*, loan, political contribution, award, or promise of future employment, based on an understanding that a vote, official action, or decision would be or had been influenced thereby.

If in doubt, the official or employee should refrain from soliciting and should refuse a gift, and should first inquire into the person or entity’s relationship with the town.

b. Gifts of property, money, or services given nominally to the town must be accepted by a resolution of the board of selectmen.

Comment: The first sentence of subsection 4a is very difficult, even if the language itself is not. Here it is broken down:

Who cannot accept or solicit gifts: An official or employee, his or her spouse or domestic partner*, child or step-child, parent, or member of his or her household

What a gift is: anything of value (see the definition at §113(5) and the exceptions in §102)

Whom one cannot accept gifts from: any person or entity that has received or sought a financial benefit from the town within the previous three years, or that intends to seek a financial benefit in

the future.

Must the gift giver have *directly* received or sought a financial benefit from the town? No, it also counts if it sought a financial benefit through a relationship with someone or some entity

What the official or employee must know about the gift giver's relationship with the town: he or she must know the above or know enough that he or she has reason to believe that such a relationship may exist

5. Special Consideration.

An official or employee* may not grant or receive any special consideration, treatment, or advantage beyond what is generally available to town residents.

Comment: See the exception in the second sentence of subsection 6(a) below, which also applies here.

6. Representation.

a. An official or employee* may not represent any other person or entity in any matter that person or entity has before the town, nor may an official or employee represent any other person or entity in any matter against the interests of the town. However, it is acceptable for elected officials to represent constituents without compensation in matters of public advocacy.

b. Volunteer members of the following boards and commissions may represent persons and entities before, or appear before, any town department, agency, board, or commission other than their own:

Board of Education
Board of Fire Commissioners
Board Police Commission
Cemetery Commission
Commission on Aging
Community Services Commission
Conservation Commission
Household Hazardous Waste Collection Committee

Housing Authority
Inland Wetlands Commission
Library Board
Parks & Recreation Commission
Safety Committee
Water Pollution Control Authority

Comment: The second sentence of subsection (a) recognizes that officials are elected to serve their constituents. Thus, for example, when a resident complains to a board of selectmen member that the town public works department blocks the resident's driveway with snow, the selectperson must be able to pursue that complaint with the proper town authorities.

7. Appearances.*

An official or employee* may not appear* before any town department, agency, board or commission, except on his or her own behalf or on behalf of the town. Every time an official or employee appears before the meeting of any town body, or when he or she writes a letter to the editor or other publicly distributed writing, he or she is required to disclose before speaking or clearly on the writing whether he or she is appearing in an official capacity or as a private citizen. If the speech or writing is in response to criticism or other communication directed at his or her official role, the official or employee may not speak or write as a private citizen.

Comment: Subsections 6 and 7 appear to overlap, because one who represents another usually makes an appearance. However, it is much more clear when an "appearance" has been made than when there is a "representation" relationship, so including both makes it more clear what conduct is being prohibited. Also, subsection 6 includes representation of private interests outside of the town's own boards and departments, when it is against the interests of the town, usually but not exclusively when the town is a party to business or a proceeding. And subsection 7 deals with appearances where the official is representing himself or herself, but it is not clear which hat the official is wearing.

Again, the general rule is that if others see your relationship with a person or entity as "representation," then you should not do it, because it would be perceived as

a conflict with your principal role of representing the town. Similarly, if your appearance at a meeting or in writing does not appear to be in the town's interest, you should not appear.

Why are officials and employees restricted from appearing before boards or agencies other than their own? Because restricting only appearances before your own board or agency would, for example, allow a code-enforcement official or the town attorney to represent private clients before the planning and zoning commission, because those officials are not members of that board. It would be very difficult to list every possible instance where an appearance before other boards and agencies would be inappropriate. When there is no such conflict, an official or employee should obtain a waiver from the Board of Ethics pursuant to §213.

8. Confidential Information.

An official or employee*, a former official or employee, a contractor or consultant* may not disclose any confidential information obtained formally or informally as part of his or her work for or with the town or due to his or her position with the town, or use any such confidential information to further his or her own, or any other person or entity's personal* or financial interests*.

"Confidential information" means information obtained in the course of holding public office or employment, or as a contractor to the town, which is not available to members of the public and which the individual or entity is not authorized to disclose, except to designated individuals or bodies, including written and non-written information. When such information is also available through channels open to the public, individuals and entities are not prohibited from disclosing the availability of those channels.

9. Political Solicitation.

An official, employee, or municipal candidate may not knowingly request, or authorize anyone else to request, that any subordinate* – or, in the case of candidates, potential future subordinate – of the official or employee* participate in an election campaign, make a political contribution, or attend a Town Meeting or any other meeting of a North Haven government body where his or her expertise is not required. Nor may he or she engage in any political activity while on duty for the town, with the use of

town funds, supplies, vehicles, or facilities, or during any period of time during which he or she is normally expected to perform services for the town, for which compensation is paid. An exception to this second sentence is when an official or employee's political activity involves running for state or federal office. Nor may an official or employee* solicit political contributions from persons or entities that have sought or received a financial benefit from the town of North Haven within the previous twenty-four months.

Comment: Political solicitation of subordinates by an official fosters the appearance, if not the reality, of coercion. The word “knowingly” here means that neither an official nor a campaign committee is required to cull the names of municipal officials from voter registration lists it mails to. However, a targeted mailing to municipal officials is prohibited.

Similarly, a candidate who is not yet in office is barred from soliciting from appointed officials and employees who may fear reprisal, such as being fired, if they refuse to aid the candidate's campaign.

The inclusion of town meetings is due to the perception that town officials pack town meetings with their employee-supporters, which seriously undermines public trust in town government.

Note that this code does not restrict voluntary political contributions or political activity by officials and employees.

10. Patronage

No official or employee* may promise an appointment or the use of his or her influence to obtain an appointment to any position as a reward for any political activity or contribution.

Comment: Patronage involves the most basic conflict of interest in government: the conflict between holding on to power and acting in the public interest. A town government based on patronage cannot have a truly ethical environment, because many of its officials and employees are there on the basis of a quid pro quo/special consideration relationship, which is inconsistent with ethics.

11. Revolving Door.

a. For a period of one year after the termination of his or her town service or employment, a former official or employee* may not appear* or practice before any town department, agency, board or commission, except on his or her own behalf, or on behalf of the town if serving on a volunteer basis. For this same period, a former official or employee may not receive compensation for working on, or having associates working on, any matter before any town department, agency, board or commission. The exception for certain volunteers in §100(6)(b) applies here as well. With respect to particular matters on which the official or employee personally worked while in town service or employment, this bar is permanent, even for all volunteers. The foregoing also applies, for the same period of time, to any individual who is a partner, associate, or member of a person or entity with respect to which the former official or employee has a financial interest*.

b. For a period of one year after the termination of his or her town service or employment, a former official or employee* may not lobby any town official or employee.

c. A former official or employee* may not accept employment with a party to a contract with the town, within a year after the contract was signed, when he or she participated substantially in the negotiation or award of the contract and the contract obliged the town to pay at least \$50,000. Nor may an official accept any appointment by a body or agency of which he or she was a member, to any position with any financial benefit or remuneration, for one year after termination of his or her membership in or on such body. Excluded from these restrictions are officials and employees who performed only ministerial acts* while working for the town.

d. It is a violation of this code for an official or employee* to, within one year of entering employment or service, award a contract or participate in an action benefitting a person or entity that formerly employed him or her.

Comment: If this bar creates a particular hardship for, say, a lawyer working on his own, the Board of Ethics may grant a waiver under §213.

Allowing former officials to immediately work for the town as consultants would allow the official to continue to act in the town's interest, but such an exception would allow for sweetheart deals between the town and a former official, who would normally have the edge in competing with vendors lacking his or her town contacts. Therefore, according to this subsection, a former official could consult to the town only on a volunteer basis.

12. Misuse of Town Property and Reimbursements

An official or employee* may not use, or permit others to use, any property owned by the town for profit or personal convenience or benefit*, except (a) when available to the public generally, or to a class of residents, on the same terms and conditions, (b) when permitted by policies approved by the Town Meeting, or (c) when in the conduct of official business used in a minor way for personal convenience. This applies also to travel and other expense reimbursements, which may not be requested for or spent on anything but official business.

13. Nepotism.

a. Unless he or she obtains a waiver pursuant to §213, no official or employee* may appoint or hire his or her spouse or domestic partner*, child or step-child, sibling or step-sibling, parent, or member of his or her household* for any type of employment, including by contract (unless competitively bid pursuant to §103), with the town.

b. No official or employee may supervise or be in a direct line of supervision over his or her spouse or domestic partner*, child or step-child, sibling or step-sibling, parent, or member of his or her household. If an official or employee comes into a direct line of supervision of one of these persons, he or she will have six months to come into compliance or to obtain a waiver.

Comment: Nepotism in government looks bad, because everyone is supposed to be treated as equals. It is also bad for morale, makes it more difficult to hire minorities, and puts officials and employees in the awkward, conflicted position of choosing between the public interest and the personal interest of their superiors, subordinates, and other colleagues.

14. Transactions with Subordinates.

No official or employee* may engage in a financial transaction, including the giving or receiving of loans or monetary contributions, including charitable contributions, with a subordinate* or person or business over which, in the official or employee's* official duties and responsibilities, he or she exercises supervisory responsibility, unless (a) the financial transaction is in the normal course of a regular commercial business or occupation, or (b) the financial transaction involves a charitable event or fundraising activity which is the subject of general sponsorship by a state or municipal agency through official action by a governing body or the highest official of state or municipal government.

Comment: Exception (b) allows for United Way campaigns and the like, but this should not be abused by getting pet charities approved.

15. Fees and Honorariums.

No official or employee* may accept a fee or honorarium for an article, for an appearance or speech, or for participation at an event, in his or her official capacity. However, he or she may receive payment or reimbursement for necessary expenses related to any such activity.

16. Endorsements.

No official or employee* in his or her official capacity may publicly endorse products or services. However, this does not prohibit an official or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.

17. Consultants*

A consultant* may not represent a person or entity other than the town in any matter, transaction, action, or proceeding in which the consultant participated personally and substantially as a consultant to the town. Nor may a consultant represent a person or entity in any matter, transaction, action, or proceeding against the interest of the town.

Comment: Other rules that apply expressly to consultants are §100(8) (Confidential Information), §100(21) (Honesty in Application for Positions), and §101(2) (Transactional Disclosure. Also see the comments to §100(11), the revolving door provision.

18. Falsely Impugning Reputation.

An official or employee* may not falsely impugn the reputation of a town elector*. If an official or employee believes his or her accusation to be true, and then learns that it was false, even in part, he or she should apologize in the same forum the accusation was made. A failure to so apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was fully intentional.

Comment: A common way for officials to intimidate townspeople who speak out and to prevent others from similarly speaking out is to use their positions of respect to falsely attack people who lack such positions and destroy their personal reputation and their legitimacy as spokespersons. This form of misuse of office is central to undermining free debate as well as citizen oversight of executive actions in their roles as citizens as members of the Town Meeting.

19. Complicity with or Knowledge of Others' Violations.

No one may, directly or indirectly, induce, encourage, or aid an official or employee* to violate any of the provisions of this code. If an official or employee suspects another official or employee's violation of this code, he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the person sits or before which the person is appearing* or will soon appear, or the Board of Ethics if the violation is past or if it is not immediately relevant to a decision, to discussion, or to other actions or transactions. Anyone who reports a violation in good faith will be protected by the whistle-blower provisions of §112.

Comment: This subsection seems to turn all town officials and employees into stool pigeons. But, in fact, a principal reason why ethics programs are ineffective is that unethical officials and employees feel they can get away with unethical conduct

because no one will turn them in. Instead of having a culture based on ethics, their town has a culture based on loyalty. People in such a town ignore conflicts of interest, because they feel protected. There are two reasons for this: (i) no one wants to be a tattle-tale and (ii) people are afraid to be a tattle-tale, because doing so might threaten their jobs or at least lead to harassment and failure to advance. This subsection, along with the whistle-blower protection in §112, allow the people who know most what is going on in town government – town employees – to safely foster an ethical environment by acting both in their own interest and in the public interest, which they cannot otherwise do.

The first sentence of this subsection is equally important. Citizens and entities that induce a municipal official to violate ethics laws should run an equal risk of penalty. For example, hoping to keep a town's business, a bank might give a personal loan to the town treasurer at a below-market interest rate. If this loan is discovered, the official might lose his or her job as a result; however, the bank will lose nothing and, more important, knowing this, it is more likely to offer the loan. Since the goal of this code is to prevent conflicts between the official's interests and the public interest, it is important that the code also make it less likely that officials are tempted into these conflicts.

20. Meeting Attendance

All members of boards and commissions are expected to attend and be prepared for meetings. It is a violation of this code to miss or come unprepared to more than a third of a board or commission's meetings in a twelve-month period.

Comment: If a member must miss or come unprepared for more than a small number of meetings, he or she should resign, whether or not his or her reasons are good ones. One can always return to a position when one's health or schedule have improved.

21. Honesty in Application for Positions.

No person seeking to become an official or employee,* consultant* or contractor may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or service for the town.

§ 101. Transactional Disclosure.

1. Whenever an official or employee* has reason to believe that he or she should recuse himself or herself under §100(3) of this code, he or she must:
 - a. immediately refrain from participating further in the matter, formally or informally;
 - b. promptly inform the appropriate individual or body, pursuant to subsection 2 below, that he or she has a conflict; and
 - c. promptly file with the town clerk a signed statement disclosing the nature and extent of the prohibited action [or “the reason for recusal”] or, if a member of a board or commission, state that information upon the public record of that board or commission.

Comment: See the comment to §100(3) for more information.

2. An official or employee* is required to inform the appropriate individual or body pursuant to subsection 1b, as follows:
 - a. If a member of a board, commission, committee, authority, or other such body, inform the chair or the entire body at a public or executive session; if the chair, inform the secretary;
 - b. If not on such a body and either elected or appointed by the First Selectman or Board of Selectmen, inform the First Selectman;
 - c. If an employee of the Board of Education, inform the Superintendent of Schools;
 - d. If the Superintendent of Schools, inform the chair of the Board of Education;
 - e. If a consultant,* inform the chair or head of the body, department, or agency that hired the consultant.

3. An official or employee* need not file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has, with respect to an interest in a contract* with the town, filed a disclosure statement pursuant to §103(2) of this code.

4. The secretary of each board, commission, or other body, when it has someone come before it, should ask each such person to state any relationship (friend, neighbor, relative, business associate, or neighbor) he or she, or any individual, business or other entity he or she represents, has with any member of the body. If a member does not feel he or she has a conflict based on this disclosed relationship that would require recusal under §100(3), the body should vote on whether or not recusal is required.

5. Whenever someone suggests or requests (privately or publicly) that an official or employee* recuse himself or herself under this code, and he or she chooses not to do so, he or she must promptly file with the town clerk a signed statement disclosing the reasons for refusing to recuse himself or herself or, if a member of a board or commission and if the suggestion was made publicly at a meeting of that board of commission, state this information upon the public record of that board or commission.

Comment: Transactional disclosure provides specific disclosure when a conflict arises, that is, when an official or employee*'s personal relationship or interest actually creates a conflict with the public interest. It is at this point that it is most important that the official or employee* seriously consider the effects of this conflict on his or her actions or judgment, as well as the effects on how his or her involvement would appear to the public if it knew about the conflict. And then he or she should report the conflict and withdraw from involvement in the matter.

§102. Exclusions from the Code of Ethics and from Transactional Disclosure.

The provisions of §100 and §101 of this code do not require recusal or transactional disclosure as a result of:

1. An action specifically authorized by statute, rule, or regulation of the State of Connecticut or of the United States.
2. A ministerial act*.
3. Gifts* (a) received by the official or employee* from his or her parent, spouse or domestic partner*, child or step-child, or sibling or step-sibling; (b) received by the official or employee, his or her spouse or domestic partner, child or step-child, parent, or member of his or her household*, having an aggregate value of

- \$50 or less during any twelve-month period; or (c) accepted on behalf of the town and transferred to the town pursuant to §100(4)(b).
4. Gifts* or financial benefits* having a value of \$50 or less that are received by a town official or employee* for the solemnization of a marriage officiated by that official or employee at a place other than his or her normal public place of business and at a time other than his or her normal hours of business.
 5. Public awards from charitable organizations.

§103. Annual Disclosure.

1. Officials, Employees, and Others Who Are Required to File.

Officials, employees*, and others holding the following job titles or positions are required to file a signed annual disclosure statement:

- a. Elected officials;
- b. Department directors and those authorized to act on their behalf (e.g., assistant directors);
- c. Officials and employees* who hold policymaking positions, including members of municipal boards, such as the Board of Ethics, the Inland Wetlands Commission, the Conservation Commission, the Economic Development Commission, the Community Services Commission, the Parks and Recreation Commission, the Water Pollution Control Authority, and the Housing Authority;
- d. Officials whose job descriptions or whose actual duties involve:
 - (i) The negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses;
 - (ii) The purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these;
 - (iii) The obtaining of grants of money or loans; or
 - (iv) The adoption or repeal of any rule or regulation having the force and effect of law;
- e. candidates for elected office;
- f. political party town committee officers; and

- g. town-employed relatives* of officials or employees* who are required to file an annual disclosure statement pursuant to subsections (a)-(f) of this section, even though the relatives themselves are not required to file pursuant to those subsections.

2. Time and Place for Filing.

a. Annual disclosure statements (for the calendar year) are to be filed with the Board of Ethics:

- i. Within one-hundred-and-twenty days after the effective date of this section;
- ii. Within thirty days after taking one of the job titles or positions listed in subsection 1 of this section; and
- iii. No later than May 15 of each year thereafter.

b. For candidates for elected office:

- i. With the filing of the certificate of candidacy or declaration of intent.
- ii. No later than May 15 of each year thereafter.

3. Changes in Disclosed Information.

Within thirty days after a change in the information contained in his or her most recently filed annual disclosure statement, a person disclosing must file a signed amendment to the statement, indicating the change.

4. Contents of Annual Disclosure Statement.

The annual disclosure statement will include:

- a. The location of any real property in the town, or within one mile of the boundary of the town, in which the person disclosing, or his or her relative*, has a financial interest*, and the type of financial interest.
- b. With respect to each outside employer or business* of the person disclosing:
 - (i) Its name (if any);
 - (ii) The nature of its business;
 - (iii) If it is an entity, the type of entity;
 - (iv) The person disclosing's relationship to it, such as sole proprietor, owner, partner, official, director, member, employee, bondholder,

or shareholder.

- c. With respect to each outside employer or business* of the person disclosing's spouse or domestic partner*, the information required by paragraph (b) of this subsection.
- d. The names and addresses of all the person disclosing's relatives* employed by the city as employees, contractors, or consultants*, including relatives who work for or are subcontractors of contractors, consultants or subcontractors.
- e. Failure to disclose the information required by subsection 4 of this section with respect to an official's or employee's spouse or other relative* does not constitute a violation of that subsection if the person disclosing made a good faith effort to obtain the information and if he or she also sets forth those efforts in his or her disclosure statement.

5. Penalties for Failure to File or Amend

If an annual disclosure statement or amendment to a statement due to a change in circumstances (see subsection 3 above) is thirty days overdue, and no extension (up to 30 days) is obtained from the Board of Ethics, the person disclosing must pay the town a fine of \$150, and \$150 more for each 30-day period thereafter in which the disclosure statement is not filed. For candidates, the period is 20 days and an extension can be only up to 15 days. If the Board of Ethics finds a disclosure statement to be insufficient or if , the disclosing person has 15 days to properly amend it before the same fines become due.

6. Any person who is subject to the disclosure provisions of this section is required to obtain and preserve, for a period of three years following the date of the relevant disclosure statement, all accounts, bills, receipts, and other documents necessary to complete and substantiate such disclosure statement. These documents will be made available for inspection upon request by the Board of Ethics or its agent after reasonable notice.

7. The Director of Finance must certify to the Board of Ethics, no later than May 15 of each year, a list of all business entities doing business with the town, currently

bidding for business with the town, or that have done business with the town over the prior three years. This list will also be made available to the public online.

Comment: While less significant than transactional disclosure, annual disclosure does fill an important role in an ethics program. In particular, annual disclosure reveals potential conflicts of interest before they arise and thus alerts the official – and the citizenry – to those potential conflicts. Annual disclosure thereby provides a check on transactional disclosure and protects officials by identifying potential ethical pitfalls, which the official can then take steps to avoid.

Subsection 4: In the event a person disclosing, after a good faith effort, is unable to obtain the required information from an estranged spouse or another relative, the person need only set forth his or her efforts in the disclosure statement; he or she need not review land records.

Subsection 7: Information in disclosure statements is useful only if it can be checked against information. That is the purpose of this subsection: to allow the comparison of an official's business connections with a list of businesses that do business with the town.

§104. Disclosure by Applicants.

1. When a person requests that the town, or a town official or employee*, take or refrain from taking any action (other than a ministerial act*) that may result in a financial benefit* to either any official or employee or to one of the other persons listed in §100(1) of this code, the person requesting must disclose the name of any such person or persons, to the extent of his or her knowledge at the time of the request.
2. If the request is made in writing, the disclosure must accompany the request. If the request is oral and made at a public meeting of a town body, the disclosure must be set forth in the public record of the body. If the request is oral and not made at a public meeting of a town body, the disclosure must be set forth in writing and filed with the town clerk.

Comment: An example of how this section works is that an applicant for a zoning

variance is required to list the name of any town official or employee*, or others listed in §100(1), who might benefit from the granting of the variance. Applicant disclosure provides a check on transactional and annual disclosure.

This section does not require that the applicant research which officials, if any, have an interest in the matter, but only requires that the applicant disclose the names of interested officials to the extent the applicant knows of the interest. Also, the section imposes no burden on the applicant to update the disclosure if the applicant later learns that certain officials have an interest in the application.

§105. Contracts with the Town.

1. Prohibited Interests.

No official or employee* may have an interest in a contract* with the town, unless it has been competitively bid in compliance with town ordinances. Nor may an official or employee have the benefit of the preference provided to town-based businesses in §32(4) of the town ordinances. If it is discovered that such an interest exists, the contract will be null, void, and wholly unenforceable.

2. Discloseable Interests.

Any official or employee* who has, will have, or later acquires an interest in any actual or proposed contract* with the town must publicly disclose the nature and extent of that interest by filing a statement with the town clerk. The town clerk will then give a copy of the statement to the Board of Ethics.

3. Contingent Fees.

No official or employee* may retain, or be retained by, anyone to solicit or secure a contract with the town upon an agreement or understanding that includes a commission, percentage, brokerage, or contingent fee, except with respect to attorneys hired to represent the town on a common contingency fee basis.

4. Contract Provisions.

All bid forms, contracts, and purchase orders to or with the town must contain Sections 100(1), (4), (5), (8), (11), (18), 102, 103, 108, and 109 of this code, and all bidders and contractors must state that they have no knowledge that there are conflicts

of interest or that any of these sections have been violated or, otherwise, they must disclose any conflicts of interest or violations they believe exist. Such disclosure should be made in writing to the official or employee* in charge of the relevant department, agency, or body, and to the town clerk, who will then give a copy to the Board of Ethics.

Comment: Competitive bidding is intended to do more than save taxpayers money. No-bid contracts also allow officials to favor friends, family, and business associates. That's why they're called "sweetheart deals." Also, the windfall profits that go to no-bid contractors are the most common source of kickbacks to municipal officials.

An employment contract between an official or employee* and the town is excluded.

§106. Appearances* by Outside Employers and Businesses of Officials and Employees.

1. Except as provided in subsection 3 of this section, an outside employer or business* of an official or employee* may not appear* before the particular town department, agency, or body in or on which the official or employee serves or by which he or she is employed.
2. Except as provided in subsection 3 of this section, an outside employer or business* of an official or employee* may not appear* before any other town agency, board, or commission if the official or employee has the authority to appoint any official, employee, or member of that agency, board, or commission or to review, approve, audit, or authorize any budget, bill, payment, or claim of the agency, board, or commission.
3. Nothing in this section may be construed to prohibit an outside employer or business* of an official or employee* from:
 - a. Appearing* on its own behalf, or on behalf of the town;
 - b. Seeking or obtaining a ministerial act*; or
 - c. Receiving a town service or benefit, or using a town facility, which is generally available to the public.

Comment: Even though an outside employer or business* may appear on its own

behalf before an official's board or agency, the official is still required to recuse himself or herself pursuant to §100(3).

§107. Advisory Opinions.

1. Upon the written request of any official or employee*, including any former official or employee whose position was terminated within three years, as well as any individual who intends to soon become an official or employee, the Board of Ethics must render, as swiftly as possible but in no event in more than fifteen days, a written advisory opinion with respect to the interpretation or application of this code. Any other person or entity may similarly request an advisory opinion, but only with respect to whether his, her, or its own action might violate a provision of this code.

2. Any person or entity may request informal advice from the Board of Ethics about any situation, even concerning hypothetical situations, but such advice is not binding and there are no time requirements. With respect to the ASPA Ethics Code, only informal advice may be requested.

Comment: For more information about advisory opinions, see §209, in the Administration part of this code. The Board of Ethics's other duties are set forth in the Administration part of this code, which is of interest to most people only in extreme situations. But all officials and employees, as well as many residents, will have occasion to take advantage of the Board of Ethics's advice. This is the Board of Ethics's most important responsibility. It is very important for town officials and employees, whenever they are uncertain as to whether they should proceed with a matter, to immediately seek advice. This will prevent unethical conduct from occurring due to a lack of knowledge or understanding, and will create a series of precedents to guide officials and employees in the future.

To avoid burdening the Board of Ethics with requests for formal advisory opinions, especially due to the urgency with which these opinions need to be provided to people faced with immediate decisions, this code permits a private citizen to request a formal advisory opinion only as to the permissibility of his or her own conduct. Any official, on the other hand, may request an advisory opinion with respect to his own, a

subordinate's, a superior's, or even a colleague's conduct. Anyone can request informal advice about any situation.

§ 108. Void Contracts.

Any contract, agreement, or other business transaction entered into by or with the town which results in or from a violation of any provision of sections 100, 101, or 103 of this code is void, unless ratified by the Town Meeting. Such ratification does not affect the imposition of any criminal or civil penalties pursuant to this code or any other provision of law.

§109. Penalties for Violation of This Code.

1. Resignation, Compensatory Action, Apology.

Violation of any provision of this code should raise conscientious questions for the official or employee* concerned as to whether resignation, compensatory action, or a sincere apology is appropriate to promote the best interests of the town and to prevent the cost – in time, money, and emotion – of an investigation and hearings.

Comment: An official should not compound ignoring a conflict of interest by again putting his or her personal interest ahead of the town's best interests by denying, obfuscating, or covering up what he or she knows to be true, or by, directly or indirectly, falsely accusing others of misconduct. An apology that includes sincere remorse and a willingness to make reasonable reparations restores respect and dignity, brings peace to personal and partisan rancor, assures the public that it is safe from further harm.

2. Disciplinary Action.

Any person or entity that is found to have engaged in action or inaction that violates any provision of this code may be reprimanded by the Board of Ethics. Any elected or appointed official who is found to have engaged in action or inaction that violates any provision of this code may be reprimanded, suspended, or removed by the Board of Ethics. However, with respect to employees not directly appointed by the Board of Selectmen, the Board of Ethics may only recommend to the Board of Selectmen that the violator be suspended or removed from office or employment, and the Board of

Selectmen must discuss and choose, in open session, whether and to what extent to impose such sanctions. In addition, with respect to all the above persons and entities, the Board of Ethics may seek or impose any of the sanctions or remedies listed in this section or in §215 of this code.

3. Civil Fine.

Any person or entity that violates any provision of this code may be subject to a civil fine of up to \$100 for each violation, payable to the town. A civil fine may be imposed in addition to any other penalty authorized by this code or by law, other than a civil forfeiture pursuant to subsection 5 of this section. However, a civil fine may not be imposed for a violation of §103 of this code.

4. Damages.

Any person or entity that violates any provision of this code is liable in damages to the town for any losses or increased costs incurred by the town as a result of the violation. Such damages may be imposed in addition to any other penalty authorized by this code or by law, other than a civil forfeiture pursuant to subsection 5 of this section.

5. Civil Forfeiture.

Any person or entity that intentionally or knowingly violates any provision of this code is subject to a civil forfeiture to the town of a sum equal to three times the value of any financial benefit* he, she, or it received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty authorized by this code or by law, other than a civil fine pursuant to subsection 3 or damages pursuant to subsection 4 of this section. Civil forfeiture is not available for a violation of §103 of this code

6. Misdemeanor.

Any person who is found by the Board of Ethics to have intentionally or knowingly violated any provision of this code is guilty of a class A misdemeanor. This subsection does not apply to a violation of §103 of this code.

§110. Debarment.

1. Any person or entity that is found by the Board of Ethics to have intentionally or knowingly violated any provision of this code is prohibited from entering into any contract with the town for a period not to exceed three years.

2. Nothing in this section may be construed to prohibit any person or entity from receiving a service or benefit, or from using a facility, which is generally available to the public.

3. Under this section, a corporation, partnership, or other entity is not vicariously liable for the actions of an employee. A corporation, partnership, or other entity is not debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity is not debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

§111. Injunctive Relief.

1. Any elector*, official, or employee of the town may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin any person or entity from violating this code or to compel any person or entity to comply with the provisions of this code. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

2. No action or special proceeding may be prosecuted or maintained pursuant to subsection 1 of this section, unless (a) the plaintiff or petitioner has filed with the Board of Ethics a sworn complaint alleging the violation, (b) it is alleged in the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Board of Ethics and that the Board of Ethics has failed to issue a determination in the matter, and (c) the action or special proceeding is filed within eighteen months after the alleged violation occurred.

Comment: This section addresses the failure of the Board of Ethics to act on a matter before it. When the Board of Ethics does act within the period prescribed by subsection 2, the remedy of the aggrieved party (the complainant or the alleged violator) lies in a proceeding to review the commission's determination (see §216). If the Board of Ethics files a determination in the matter after the §111 suit has been filed, the matter should proceed as a review proceeding, provided that the plaintiff or petitioner is aggrieved by the Board of Ethics's determination.

§112. Whistle-Blower Protection.

1. Neither the town nor any person, including officials and employees*, may take or threaten to take official or personal action, including but not limited to discharge, discipline, harassment, personal attack, or change in job, salary, or responsibilities, against any official, employee, or other person because that person, or a person acting on his or her behalf, (a) reports, verbally or in writing, or files a complaint with the Board of Ethics regarding an alleged violation of this code, or (b) is requested by the Board of Ethics to participate in an investigation, hearing, or inquiry, or is involved in a court action relating either to the alleged violation or to evidence presented or given as part of an Board of Ethics investigation or hearing. The provisions of this section are not applicable when the complainant or reporter of a violation made accusations or other statements that were found by the Board of Ethics to be malicious and false. The provisions of this section apply in addition to the provisions of §31-51m of the Connecticut General Statutes. A violation of this section is a violation of this code.

2. Anyone who alleges a violation of subsection 1 may bring a civil action for appropriate injunctive relief, or actual damages, or both within ninety days after the occurrence of an alleged violation. A court may order reinstatement of the plaintiff to such a suit, or the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the plaintiff all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

Comment: Subsection 2's reference to "an" alleged violation means that only the last of a series of violations need have occurred within ninety days, and that all prior

violations may be considered in the civil action.

With whistle-blower protection, town officials will know their violations might be reported and, therefore, will be more likely to act consistent with the code (that is, their personal interest in protecting themselves will be closer to the public interest in their acting fairly and impartially).

§113. Definitions.

Unless otherwise stated or unless the context otherwise requires, when used in this code:

1. To “appear” or “appear before” means to communicate in any form, including, without limitation, personally, through another person, by letter, or by telephone. This also applies to the noun form, “appearance.”
2. “Consultant” means an independent contractor or professional person or entity engaged by the town and in a position to influence a town decision or action, or have access to confidential information.
3. “Customer or client” in §100(1)(e) means (a) any person or entity to which an official or employee* has supplied goods or services during the previous twenty-four months, having, in the aggregate, a value greater than \$1,000, or (b) any person or entity to which an official or employee’s outside employer or business* has supplied goods or services during the previous twenty-four months, having, in the aggregate, a value greater than \$1,000, but only if the official or employee knows or has reason to know the outside employer or business supplied the goods or services.
4. “Domestic partner” is an adult, unrelated by blood, with whom an unmarried or separated official or employee* has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.
5. “Elector” is someone who can vote at Town Meetings, including town residents as well as taxpaying non-residents who own at least \$1,000 of property in the town.
6. “Financial benefit” and “gift” include any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. A financial transaction may be a financial benefit, but is not a gift unless it is on terms not available to the

general public. These terms do not include campaign contributions authorized by law. A “financial interest” is a relationship to something such that a direct or indirect financial benefit has been, will be, or might be received as a result of it.

7. A "gift" is a financial benefit received or given without equivalent compensation. However, a financial benefit received or given on terms available to the general public is not a gift.
8. “Household” includes anyone whose primary residence is in the official or employee*’s home, including non-relatives* who are not rent payers or servants.
9. An “interest in a contract” is a relationship to a contract such that a direct or indirect financial or other material benefit has been, will be, or might be received as a result of that contract. The official or employee* does not need to be a party to the contract to have an interest in it. Indirect benefit includes a benefit to the official’s relative* or outside business or employer*.
10. “Ministerial act” means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act. An example of a ministerial act is the granting of a fishing license by a town clerk.
11. “Official or employee” means any official or employee of the town, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, authority, department, district, administration, division, bureau, or committee of the town. It also includes officials and employees of bodies, agencies, and authorities that do town work but are not legally part of the town, as well as individuals who do town work under contract. “Official or employee” does not include:
 - (a) A judge, justice, or official or employee of the court system;
 - (b) A volunteer fire fighter or civil defense volunteer, except a fire chief or assistant fire chief; or
 - (c) A member of an advisory board if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the town or to restrict the authority of the town to act. A charter revision commission is not such an advisory board.
12. “Outside employer or business” includes:
 - (a) any substantial business activity, other than service to the town;

- (b) any entity, other than the town, of which the official or employee* is a member, official, director, or employee, and from which he or she receives compensation for services rendered or goods sold or produced;
- (c) any entity located in the town or which does business with the town, in which the official or employee* has an ownership interest, except a public corporation in which the official or employee's ownership interest is the lesser of (i) stock valued at less than \$50,000 or (ii) five percent of the outstanding stock; and
- (d) any entity to which the official or employee owes, or by which the official or employee is owed, more than \$10,000, either in the form of a note, a bond, a loan, or any other financial instrument.

For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses..

- 13. "Personal benefit" includes benefits other than those that are directly financially advantageous. These include financial benefits* to relatives*, employers and business associates, and others listed in §100(1), as well as non-financial benefits* to these people and to oneself, including such things as reputation. A "personal interest" means a relationship to something such that a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.
- 14. "Relative" means a spouse or domestic partner, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official's or employee's latest individual state income tax return.
- 15. "Subordinate" means another official or employee* over whose activities an official or employee has direction, supervision. or control.

Comment: Subsection 3 ("customer or client"): An employee of a large corporation may not know many of the customers or clients of his or her employer and should not be penalized for that understandable ignorance. For that reason, the "knows or has reason to know" language is included

Subsection 7 ("gift"): A "financial transaction ... on terms not available to the general public" includes, for example, a reduced-interest loan to an official. The reduction in interest would constitute a gift.

Subsection 11 (“officials and employees”): There are problems with loopholes that are created when town work is done by an agency or authority, such a housing authority, that is legally separate from the town, or by a contractor doing work normally done by a town, including management. The language in this definition anticipates problems that might arise from excluding these individuals from coverage.

Subsection 12 (“outside employer or business”): It is sometimes said that stock ownership in a public company is not relevant to an official’s interests, because he or she owns a tiny percentage of the stock and therefore has no control over the entity. But the success of the public company does have special meaning to someone who holds a large dollar amount of that company’s stock and, therefore, it does constitute an interest that could get in the way of an official’s ability to act impartially (and there is a perception that the official would benefit from the company’s success).

Part B: Administrative Provisions

§201. Duties of Town Clerk.

The town clerk must maintain on file for public inspection and, with respect to disclosure statements, index in alphabetical order by the last name of the relevant official, employee, candidate, consultant, contractor, or applicant the following documents:

- (1) A copy of the code of ethics and amendments thereto;
- (2) A statement that the town has established a Board of Ethics, and its composition;
- (3) A copy of the form of annual statement of financial disclosure;
- (4) A list of the names and offices, or positions, of all officials and employees required to file annual disclosure statements;
- (5) Copies of all transactional, applicant, and annual disclosure statements filed pursuant to this code. After seven years, annual disclosure statements may be discarded.

§202 Maintenance of Disclosure Statements.

1. The town clerk must transmit promptly to the Board of Ethics copies of each transactional and applicant disclosure statement filed pursuant to sections 101, 103, and 107 of this code.
2. The Board of Ethics must index and maintain on file for at least seven years all disclosure statements filed with it pursuant to sections 101, 103, 106, and 107.

§203 Board of Ethics: Establishment; Qualifications of Members; Appointment of Members; Term of Office.

1. There is hereby established an Board of Ethics consisting of five members, plus two alternate members.
2. No member of the Board of Ethics may be, or have been within three years of appointment, an official or employee* of the town. Nor may a member of the Board of Ethics hold office in a political party or be employed or act as a lobbyist. A Board

of Ethics member may make campaign contributions but may not participate in any election campaign.

3. Of the regular membership of the Board, no more than two may be registered in the same political party, and at least one must be registered as unaffiliated. The alternate members may not be registered in the same political party.

4. Within ninety days after the effective date of this code, and no later than December 31 each year thereafter, the Board of Selectmen will appoint as members of the Board of Ethics those individuals selected by a committee consisting of one representative from each of the following town, area, and state organizations:

- North Haven League of Women Voters
- North Haven PTA
- North Haven Clergy Association
- Quinnipiac Chamber of Commerce
- North Haven Historical Society
- North Haven Rotary Club
- North Haven High School senior class
- The Community Foundation
- Connecticut Citizen Action Group

5. The term of office of Board of Ethics members is three years and runs from January 1 through December 31, except that, of the regular members first appointed, one member will serve until December 31 of the year in which the Board is established, two regular members and one alternate member will serve until the second December 31, and two regular members and one alternate member will serve until the third December 31.

6. A Board of Ethics member will serve until his or her successor has been appointed, in the same manner as the original appointments. Consecutive service on the Board of Ethics may not exceed two full terms, except that a one-term alternate member may thereafter serve two terms as a regular member, and a two-term alternate member may thereafter serve one term as a regular member.

7. Members of the Board of Ethics will not receive compensation, but will be reimbursed for reasonable expenses incurred in the performance of their official duties.

8. The unexcused absence of any member from three consecutive meetings, unless the Board of Ethics has excused the absence for good and sufficient reason, shall constitute a resignation.

Comment: Nothing is more important than the actual and perceived independence of the Board of Ethics. An ethics board selected by anyone who might come before the board, or whose appointees and other colleagues might come before the board, is compromised before it hears a single complaint or gives advice to a single official. And it will be far less likely that North Haven residents will make use of a politicized ethics board.

Similarly, the restriction on municipal officials and employees serving on the Board of Ethics seeks to ensure that the board is as free as possible from pressure from other officials, co-workers and superiors alike. Even people who are heavily involved in political activities, such as advisors and campaign aides, should not be appointed to the Board of Ethics because it is difficult for their decisions to be seen as neutral. Anyone who appears to have political loyalties, or family or business relationships with officials, should be passed over for this board.

The restriction on the partisan make-up of the board aims to strengthen both the perception and the reality of a board that is not partisan. For this same reason, this code restricts the political activities of Board of Ethics members.

In North Haven, there are many people whose work does not involve them with the town government, and who are not politically involved. Many of these individuals work in professions with ethics standards, so that they understand the basic concepts. There are also people who are considered by virtue of their position to be relatively neutral, particularly clergy members. There is no reason not to seek these people out, including by the advertising of openings.

§204. Board of Ethics: Vacancies.

When a vacancy occurs in the membership of the Board of Ethics, the vacancy will, within sixty days, be filled for the unexpired portion of the term in the same manner

as regular appointments. Any person appointed to fill a vacancy on the Board of Ethics must meet the qualifications and limitations set forth in §203 of this code.

§205. Board of Ethics: Removal of Members.

A Board of Ethics member may be removed from office by a vote of all the other regular members of the Board of Ethics, after written notice, including a clear statement of the grounds for removal, and an opportunity for reply, at least thirty days before the vote on removal. The only grounds for removal are failure to meet the qualifications or limitations set forth in §203 of this code, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, and violation of this code.

§206. Board of Ethics: Meetings.

At its first meeting each year, the Board of Ethics will elect a chair and a vice-chair from among its regular members; alternate members may vote for chair and vice-chair. A majority of the regular members is required for the Board to take any action. Meetings will be held monthly. The chair or a majority of the regular members may call a special meeting of the Board.

§207. Board of Ethics: Jurisdiction, Powers, and Duties.

1. The Board of Ethics may only act with respect to current and former officials and employees*, consultants*, candidates for elected office, and persons and entities that do business with the town, give gifts* to officials and employees or their families, or are otherwise covered by the provisions of this code.
2. The termination of an official's or employee's* term of office or employment with the town does not affect the jurisdiction of the Board of Ethics with respect to the requirements imposed on him or her by this code.
3. Unless otherwise stated, the Board of Ethics must send all official correspondence by registered or certified mail, or by personal service.
4. Unless otherwise stated, all Board of Ethics decisions or determinations must be

made by the affirmative vote of three sitting members.

5. The Board of Ethics has the following powers and duties:

- (a) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this code;
- (b) To hire independent counsel with funds to be sufficiently budgeted for this purpose, provided that the Board of Ethics may not delegate to such counsel the power to render an advisory opinion, determine a violation, reprimand, impose a civil fine or other sanction, seek any remedy not otherwise delegated in this code, or refer a matter to a prosecutor;
- (c) To prepare and provide forms for complaints and for annual, applicant, and transactional disclosure statements, pursuant to section 208;
- (d) To review, index, and maintain on file disclosure statements filed with the Board of Ethics pursuant to sections 202 and 208 of this code, as well as statements of having understood the code pursuant to section 219(3);
- (e) To render, index, and maintain on file advisory opinions pursuant to section 209;
- (f) To review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct investigations pursuant to section 213;
- (g) To conduct hearings, apply and recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to sections 214 and 215;
- (h) To dispose of waiver requests pursuant to section 210;
- (i) To provide training and education to officials and employees, candidates, consultants, citizens, and individuals and entities who do business with the town, pursuant to section 211;
- (j) To prepare an annual report and recommend changes to this code pursuant to section 212;
- (k) To provide for public inspection of certain records pursuant to section 217; and
- (l) To make this code and explanations of it available for reproduction and distribution pursuant to section 219; and

Comment: Subsection 4: “Sitting members” means those members, regular or alternate, who are sitting to make a determination about the relevant matter.

Care must be taken that any municipal staff used by the Board of Ethics maintain the confidentiality of the Board's actions and remain free from conflicts of interest and political and other pressures from superiors and other colleagues.

One of the most popular ways for officials to prevent a board of ethics from doing too good a job investigating alleged violations of the ethics code is to restrict its budget. With a small budget, it will be forced to depend on the town attorney and will have to cut corners or delay investigations. Any town seeking to improve its ethical environment should set a healthy budget for the Board of Ethics.

§208. Lists, Complaint Forms, and Disclosure Statements.

1. The Board of Ethics will review the list of officials and employees* required to file annual disclosure statements, to determine whether the lists are complete and accurate. Within ninety days after it has been formed, and by February 1 each year thereafter, the Board of Ethics must (a) cause to be filed with the town clerk a list of the names and offices, or positions, of all officials and employees required to file annual disclosure statements pursuant to §106 of this code; and (b) notify all such officials and employees of their obligation to file an annual disclosure statement.
2. The Board of Ethics will prepare forms for complaints and for annual, applicant, and transactional disclosure statements, and will make these forms available at the town clerk's office and on the town's website.
3. By June 15 of each year, the Board of Ethics must review all annual disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this code.
4. The Board of Ethics must review all transactional disclosure statements filed with it.
5. If the Board of Ethics determines that an annual or transactional disclosure statement is deficient or reveals a possible or potential violation of this code, it will

notify the person in writing of the deficiency or possible or potential violation, and of the penalties for failure to comply with this code.

§209. Advisory Opinions.

1. Upon the written request of any official or employee*, including any former official or employee whose position was terminated within three years, as well as any individual who intends to soon become an official or employee, the Board of Ethics must render, as swiftly as possible, but in no event in more than fifteen days, a written advisory opinion with respect to the interpretation or application of this code. Any other person or entity may similarly request an advisory opinion, but only with respect to whether his or her own action might violate a provision of this code.

2. Any person or entity may request informal advice from the Board of Ethics about any situation, even concerning hypothetical situations, but such advice is not binding and there are no time requirements. With respect to the ASPA Ethics Code, only informal advice may be requested.

3. A formal advisory opinion rendered by the Board of Ethics, until and unless amended or revoked, is binding upon the Board of Ethics in any subsequent proceeding concerning the person or entity that requested the opinion and acted in good faith, unless he or she omitted or misstated a material fact. The advisory opinion may also be relied upon by the person or entity, and may be introduced and used as a defense in any civil action brought by the Board of Ethics or the town.

4. Advisory opinions and requests for advisory opinions will be indexed and maintained on file, and placed on the town website, by the Board of Ethics, with names and other necessary details omitted to protect anonymity, unless the requesting party states otherwise. Relevant persons and entities should be notified about advisory opinions that might specifically affect their conduct.

5. Any person aggrieved by an advisory opinion of the Board of Ethics may seek judicial review and relief.

Comment: To avoid burdening the Board of Ethics with requests for formal advisory opinions, especially due to the urgency with which these opinions need to be provided to people faced with immediate decisions, this code permits a private citizen or business to request a formal advisory opinion only as to the permissibility of his or her own conduct. Any official or employee*, however, may request an advisory opinion with respect to anyone's conduct.

The reference to civil actions in subsection 3 refers to actions for damages, civil forfeiture, debarment, or injunctive relief.

§210. Waivers.

1. Upon written application and upon a showing of compelling need by the applicant, at an open session after public notice, the Board of Ethics may in exceptional circumstances grant the applicant a waiver of any of the provisions of subsections 1-9, 11-16, and 19 of §100, paragraph (a) of subsection 1 of §101, §103, §106, §107, or §108 of this code.

2. Waivers must be in writing and must state the grounds upon which they are granted. Within ten days after granting a waiver, the Board of Ethics must publish a notice setting forth the name of the person or entity requesting the waiver and a general description of the nature of the waiver in the official newspaper designated by the town for legal notices. All waiver applications, decisions, and other records and proceedings relating to waivers will be indexed and maintained on file by the Board of Ethics.

§211. Training and Education.

The Board of Ethics (1) will immediately make this code available in print and on the town website, and will, with six months of its formation, explanations of its provisions available, in print and on the town website, to all officials and employees*, candidates and consultants*, and to town electors* and to all persons doing business or interested in doing business with the town, and (2) will develop educational materials and a required educational program for the officials and employees of the town, and those who do business with the town, regarding the provisions of this code. The educational program must begin within eighteen months after this code goes into effect. In

addition, the Board of Ethics will hold an annual workshop for new and old officials and employees, consultants and those doing business with the town, to discuss this code, its values and goals, its enforcement, and the ways in which it has affected their work and the working of the town government.

§212. Annual Reports; Review of Ethics Laws.

1. The Board of Ethics must prepare and submit an annual report to the Board of Selectmen, summarizing the activities of the Board. The report may also recommend changes to the text or administration of this code. The report must be submitted no later than October 31 of each year, and must be filed with the town clerk and made immediately available on the town website.

2. The Board of Ethics will periodically (at least every five years) review this code and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in town government, and whether they set forth clear and enforceable, common-sense standards of conduct. After at least one public hearing, it may recommend to the Board of Selectmen amendments to this code.

§213. Filing a Complaint; Investigations.

1. Upon receipt of a sworn complaint on a form prepared by the Board of Ethics pursuant to §208(2), which any person or entity may file, the Board of Ethics will first determine if it, in fact, alleges an action or inaction that, if true, would constitute a violation of this code, and that at least one person accused of a violation is a person covered by this code. If the Board of Ethics determines that no such action or inaction has been alleged or that no one accused is covered by this code, then it will dismiss the complaint with notice to the complainant. The Board of Ethics must make this determination within fifteen days of receipt of a sworn complaint.

2. A complaint must be filed within three years after the alleged violation was committed. Complaints may be filed against officials and employees* who no longer hold office or are no longer employed.

3. The Board of Ethics may on its own initiative determine that a violation of this code may exist and prepare a complaint of its own. If it receives an anonymous complaint, the Board of Ethics is required to file its own complaint within thirty days, if the anonymous complaint, in whole or in part, meets the criteria of subsection 1. The Board of Ethics may also amend a complaint that has been filed with it by adding further allegations, by deleting allegations that would not constitute a violation of this code, or by deleting allegations against persons or entities not covered by this code.

4. The Board of Ethics must send notification of the accepted complaint, as amended, to the respondent against whom the complaint was filed, not later than seven days after making the determination in subsection 1 or after the preparation of its own complaint pursuant to subsection 3. A copy of the complaint, as amended, must accompany such notice. The Board of Ethics must also send notification to the complainant in writing of its receipt and acceptance of the complaint, and of any amendments. Here and elsewhere, “complainant” and “respondent” might consist of more than one person or entity.

5. If a sworn complaint is accepted or prepared pursuant to subsections 1 or 3, the Board of Ethics must conduct an investigation. From this point on, the complainant may not withdraw his or her complaint, although he or she may request that the Board of Ethics make a finding of either no probable cause or no violation, or suggest a settlement with the respondent. In conducting such an investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material.

Comment: The reason complainants are not permitted to withdraw their complaints is to prevent respondents from pressuring them to do so. Once a possible violation has been brought to the Board of Ethics’ attention, it is not a proceeding of complainant against respondent, but an ethics issue for the town to determine.

6. The goal of the investigation is to determine whether there is probable cause to

believe that a violation of this code has occurred. “Probable cause” means a preponderance of the evidence, that is, that it is more likely than not that a violation has occurred.

7. The respondent may file with the Board of Ethics a response to the complaint within thirty days after his or her receipt of the complaint. The response, if any, must be sent to the complainant by the Board of Ethics within five days after its filing, and, within fifteen days after receipt, the complainant may file with the Board of Ethics a response to the respondent’s response, which the Board of Ethics must send to the respondent within five days after its filing.

8. During the investigation period, the Board of Ethics may amend a complaint to include other violations which it reasonably suspects to have occurred. It must send a copy of any such amendment to the respondent and complainant within seven days after the amendment has been made.

9. The investigation will be confidential unless the respondent requests that it be public or unless the respondent makes public the fact of or any information concerning the proceeding. The respondent has the right to appear and be heard, and the complainant has the right to attend any such hearing and be heard.

Comment: Confidentiality during an investigation is important to protect innocent respondents, as well as to depoliticize the process. Complaints are sometimes filed for the express purpose of embarrassing, harassing, or taking revenge on public officials, often during an election season. No one can stop people from making public accusations, but sadly, when accusations become official proceedings, they are taken more seriously by the press as well as by town residents.

10. The Police Department and all town agencies, bodies, officials, and employees are required to respond fully and truthfully to all enquiries and cooperate with all requests of the Board of Ethics or its agents relating to an investigation. It is a violation of this code for any official or employee* to deny access to information requested by the Board of Ethics in the course of an investigation or a public hearing, except to the

extent that such denial is required by federal, state, or local law.

11. The Board of Ethics must complete its investigation within ninety days. If it does not, then there is a presumption of probable cause and public hearings will be held pursuant to §211.

12. If the Board of Ethics determines that there is no probable cause to believe that a violation of this code occurred, it will dismiss the complaint and send notification of this dismissal to the complainant and respondent. If it determines that there is probable cause, it will send notification of this finding to the complainant and respondent. In its letter of dismissal or notification of finding, which must be sent within five days after the vote on probable cause, the Board of Ethics must set forth a brief summary of the facts and either the reasons for dismissal or a finding of probable cause.

13. Nothing in this section may be construed to permit the Board of Ethics to conduct an investigation of itself or of any of its members or staff. If the Board of Ethics receives a complaint alleging that it or any of its members or staff has violated any provision of this code, or any other law, the Board of Ethics must promptly transmit to the Board of Selectmen a copy of the complaint.

14. If a complaint is made under this section with the knowledge that it is without foundation in fact, the respondent has a cause of action against the complainant for double the amount of damages caused by the complaint. If the respondent prevails in such an action, the court may award the respondent the costs of the action and reasonable attorney fees.

§214. Public Hearing Process.

1. After a finding of probable cause, the Board of Ethics must hold one or more public hearings, and the first public hearing must commence within thirty days after the finding of probable cause. The goal of these public hearings is to determine whether or not a violation of the Code of Ethics has occurred. The hearings will be held with reasonable promptness, with the last hearing to be held not more than one-

hundred-and-eighty days after the finding of probable cause.

2. Any person who is, in the opinion of the Board of Ethics, adversely affected by comments made during a hearing, may testify in response at a hearing, directly or through a representative.

3. The Board of Ethics may refer the matter to an authority or person or body authorized by law to impose disciplinary action pursuant to applicable law or collective bargaining agreement or, if it determines there are possible criminal violations, to the appropriate prosecutor.

4. Extension of time.

Under extraordinary circumstances, extensions of time to any of the time limitations specified in this section may be granted by the Board of Ethics upon a vote of four sitting members. However, in no event may the total modified time period, i.e., the original time period plus the extension(s), exceed double the time period prescribed by this code. The Board of Ethics must give written notice of any extension(s) of time to the respondent and the complainant.

4. Rules and Procedure for Public Hearings.

a. Public hearings will be conducted under the Board of Ethics' rules and regulations, subject to any applicable provisions of law and collective bargaining agreements. The rules and regulations will include the following: oral evidence will be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available and, upon request, parties and the Board of Ethics will be given the opportunity to compare the copy to the original; the state's administrative rules of evidence, rather than strict rules of judicial evidence, will be followed, to allow a liberal introduction of testimony and documentary evidence; and the complainant and respondent have the right:

(1) To be represented by counsel.

(2) To present oral or written documentary evidence which is not

irrelevant, immaterial, or unduly repetitious.

(3) To examine and cross-examine witnesses required for a full and true disclosure of the facts.

- b. The Board of Ethics may subpoena, and its members may question verbally or in writing, witnesses to testify and may compel production of documents and other effects as evidence, and failure to obey such subpoena shall constitute a misdemeanor.
- c. At all hearings relating to a complaint, a court stenographer will record the proceedings.
- d. Upon the request of the complainant, the respondent, or any member of the Board of Ethics, the Board of Ethics will cause the hearings to be tape-recorded or filmed, and a transcript to be made. If this is requested by either a respondent or complainant, the requesting party will bear the costs.

5. With respect to the public hearing process, the Board of Ethics will follow the requirements of the Connecticut Freedom of Information Act.

§215. Finding of Violation; Penalties; Injunctive Relief.

1. Disciplinary Action.

Within thirty days after the last hearing, the Board of Ethics will determine whether to dismiss the complaint or, upon a finding of a violation of this code, to take appropriate disciplinary action pursuant to §109(2) of this code, or to recommend disciplinary action to the Board of Selectmen in circumstances set forth in §109(2).

2. Finding a Violation.

A finding of a violation of this code requires the affirmative vote of three members of the Board of Ethics that there is clear and convincing evidence that the respondent has violated this code. Any member not present at all public hearings and deliberations may not vote. The written final decision must specify the code sections violated and provide a factual explanation supporting each violation or, if no violation is found, findings of fact and the reasons for dismissal. When determining the appropriate penalty, the following should be considered: the severity of the

respondent's offense; the position and responsibilities of the respondent; the presence or absence of any intention on the part of the respondent to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. The Board of Ethics must file its memorandum of decision with the town clerk and send it to the complainant and respondent within ten days after it votes.

3. Civil Fine

The Board of Ethics, on behalf of the town, may impose on such person or entity a civil fine as provided in subsection 3 of §109 of this code.

4. Damages.

The Board of Ethics, on behalf of the town, may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in subsection 4 of §109 of this code.

5. Civil Forfeiture.

The Board of Ethics, on behalf of the town, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture, as provided in subsection 5 of §109 of this code.

6. Injunctive Relief.

The Board of Ethics, on behalf of the town, may order a violator to cease and desist the violation if the violation is still ongoing, or it may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this code or to compel compliance with this code. The Board of Ethics may also order a violator of a disclosure requirement to file an unfiled annual statement or add information to a filed annual statement.

7. Suspension and Removal from Office.

The Board of Ethics may recommend to the Board of Selectmen the respondent's suspension or removal from office, or other sanctions or remedies authorized by law or collective bargaining agreement not listed in this section or in §109, and the Board of

Selectmen must discuss and choose, in open session, whether and to what extent to impose such sanctions.

8. Prosecutions.

The Board of Ethics may refer possible criminal violations to the Chief State's Attorney or other appropriate prosecutor. Nothing contained in this code may be construed to restrict the authority of any prosecutor to prosecute any violation of this code or of any other law.

9. Debarment.

If the Board of Ethics finds that a person or entity has intentionally or knowingly violated any provision of this code, that person or entity is prohibited from entering into any contract with the town for a period not to exceed three years, pursuant to §110 of this code.

10. Limit on Board of Ethics.

Nothing in this section may be construed to permit the Board of Ethics to take any action with respect to any alleged violation of this code, or of any other law, by the Board or by any member or staff member thereof. The Town Attorney and members, associates, and of counsel of his or her firm are not staff members of the Board of Ethics.

§216. Judicial Review.

Any person or entity aggrieved by a decision of the Board of Ethics may seek judicial review and relief pursuant to the Connecticut General Statutes.

§217. Public Inspection of Records; Public Access to Meetings.

1. Unless otherwise stated in this code, the records of the Board of Ethics will be available for public inspection. Records available for public inspection include all disclosure statements, advisory opinions (with names and other necessary details omitted to protect anonymity, unless the requesting party states otherwise), all requests for waivers and related papers and decisions, and all papers filed and all decisions made in a Board of Ethics proceeding after a finding, formally or presumed, of

probable cause.

2. After a finding, formally or presumed, of probable cause, all hearings before the Board of Ethics concerning alleged misconduct will be open to the public, and public notice of each public meeting must be provided to the town clerk and posted on the town website at least five days in advance. All meetings, or parts of meetings, of the Board of Ethics that are not directly related to an investigation or other consideration of complaints prior to a finding of probable cause will be open to the public and follow all the rules of the state Freedom of Information Act.

§218. Miscellaneous Provisions.

1. No existing right or remedy may be lost, impaired, or affected by reason of this code.

2. Nothing in this code may be deemed to bar or prevent a present or former town official or employee* from timely filing any claim, account, demand, or suit against the town on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

3. If any provision of this code is held by any court, or by any federal or state agency, of competent jurisdiction to be invalid as conflicting with any federal, state, or town charter provision, or is held by such court or agency to be modified in order to conform to the requirements of such provision, the conflicting provision of this code is to be considered a separate, independent part of this code, and such holding will not affect the validity or enforceability of this code as a whole or any part other than the part declared to be invalid.

4. Any law of any sort – local, state, or federal – that requires a higher, greater, more exacting, or more restrictive standard of conduct than is provided in this code prevails over the provisions of this code and continues in full force and effect with respect to those covered by this code.

§219. Distribution and Posting.

1. Within ninety days after the effective date of this section, and thereafter as appropriate, the Board of Ethics will transmit to the First Selectman, in a form suitable for posting, copies of those provisions of this code which the Board of Ethics deems necessary for posting. Within fourteen days after receipt of those copies, the First Selectman must cause the copies to be posted conspicuously in every public building under the town's jurisdiction.
2. Within ninety days after the effective date of this section, and thereafter as appropriate, the First Selectman must cause copies of this code to be distributed to every town official and employee*, to every contractor with the town, and to all town consultants*, and must make the code readily available to the public by placing a copy on the town website and copies in the town library.
3. Every official or employee* elected or appointed thereafter must be furnished a copy of this code within ten days after entering upon the duties of his or her position. Each official or employee, present and future, must within thirty days of receipt sign a statement that he or she has read and understood the code's provisions, and must file that statement with the Board of Ethics. In addition, such a statement must be signed and filed with the Board of Ethics every year by January 31.
4. Failure to comply with the provisions of this section or failure of any official or employee* to receive a copy of the provisions of this code shall have no effect on the duty of compliance with this code or on the enforcement of its provisions.

§220. Effective Date.

This local law will take effect immediately upon filing in the office of the Secretary of State and in compliance with all applicable provisions of law.

APPENDIX A
Sample Annual Disclosure Statement

Annual Disclosure Statement for 2007

Last Name	First Name	Initial
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Title	Department, Agency, or Body
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Work Address	Phone No.
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Home Address	Phone No.
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If the answer to any of the following questions is “none,” please so indicate. If you have more than one entry for any of the sections, please fill out separate sheets and attach to these sheets. If you could not obtain the required information from a spouse or other relative, set forth your efforts to obtain information on a separate sheet attached to this statement.

1. REAL ESTATE. List the address or description of each piece of real property in this town, or within one mile outside its boundaries, that you, your spouse or domestic partner, or other relative, or your or your spouse’s or domestic partner’s outside employer or business own or have a financial interest in. “Relative” means your spouse or domestic partner, child, step-child, brother, sister, parent or step-parent, or a person you claimed as a dependent on your latest state income tax return.

Name of Relative and Relationship to You

Address or Description of Real Estate

Type of Financial Interest (e.g., owns or partnership)

2. YOUR OUTSIDE EMPLOYERS OR BUSINESSES. List the names of any outside employers or businesses from which you receive compensation for services rendered or goods sold or produced, or of which you are a member, official, or employee. Also include any entity in which you have an ownership interest, except a public corporation of which you own less than five percent of the outstanding stock or stock valued at less than \$50,000, whichever is less (such a public corporation need be listed only if it does business with or in the town). Identify the type of entity (e.g., partnership, corporation, self-employment, or sole proprietorship), and list your relationship to the employer or business (e.g., employee, owner, partner, official, director, member, or shareholder).

Name of Employer or Business

Nature of Business

Type of Entity

Your Relationship to Employer or Business

3. YOUR SPOUSE'S OR DOMESTIC PARTNER'S EMPLOYER OR BUSINESS. List the information in question 2 for your spouse or domestic partner.

Name of Employer or Business

Nature of Business

Type of Entity

Relationship to Employer or Business

Date: _____

Signed: _____