

## TOWN OF NORTH STONINGTON

### CODE OF ETHICS

#### **Section 1. Declaration of Policy and Purpose**

Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed and administered by government officials and employees impacts every citizen and property owner of the Town of North Stonington ("Town") and must be based on honest and fair deliberations and decisions. This process must be free from favoritism, threats, undue influence, all forms of impropriety and any appearance of impropriety. The purpose of this Code of Ethics ("Code") is to establish suitable ethical standards for all such officials, officers and employees by prohibiting acts related to financial gain or financial interests that are not in the best interests of the Town.

#### **Section 2. Applicability**

This Code is applicable to and binding upon every officer, official, agent, contractor, consultant and employee of the Town, and every member of any board, commission or committee of the Town, whether elected or appointed, paid or unpaid. This Code shall not be applicable if it conflicts in whole or in part with any collective bargaining agreement, employment agreement and/or state statute.

#### **Section 3. Definitions**

***Advisory Opinion:***

A written opinion regarding the Code prepared by an attorney (see Section 6).

***Business:***

Any entity through which activity for profit or not for profit is conducted including, but not limited to a corporation, limited liability company, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.

***Ethics Commission:***

A municipal Ethics Commission ("Commission") established by the Town.

***Complainant:***

Any person who signed a complaint under the penalties of false statement alleging a violation of this Code.

**Confidential Information:**

Information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held, that is not, at the time of transmission, a matter of public record or public knowledge.

**Confidential Investigation:**

Examination, prior to the finding of probable cause, of both written and oral evidence, that is not to be disclosed to any third party by anyone connected with the investigation, except upon the written request of the respondent.

**Financial Interest:**

Pecuniary, monetary or material benefit of one hundred dollars (\$100) or more in a calendar year accruing to a person governed by this Code as a result of a contract, transaction, zoning decision or other matter which is, or may be, the subject of an official act or action by or with the Town, except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all persons and/or property similarly situated.

**Gift:**

Anything of economic value in excess of one hundred dollars (\$100). A gift does not include:

1. A political contribution, reported as required by law of a donation or payment as described in subdivision (9) or (11) of subsection (b) of 9-601a.
2. Services provided to the Town, or to a Town commission, board or agency, by persons volunteering their time.
3. A commercially favorable loan made on terms not more favorable than loans made in the ordinary course of business.
4. A gift received from a member of the individual's immediate family or significant other living at the same residence.
5. Goods or services that are provided to the Town and facilitate government actions or functions.
6. A certificate, plaque or other ceremonial award.
7. A rebate, discount or promotional item available to the general public.
8. Printed or recorded informational material germane to Town action or function.

9. Items of nominal value containing or displaying promotional material.
10. An honorary degree bestowed upon a Town official or employee by a public or private university or college.
11. A meal or beverage provided at an event, or the registration or entrance fee to attend such event in which the public official or public employee participates in said person's official capacity.
12. A meal or beverage provided in the home by an individual who resides in the Town.
13. Gifts tended on gift-giving occasions generally recognized by the public (e.g., Christmas, Hanukkah, birthday, wedding).

***Immediate family:***

Spouse, child, parent, grandchild, brother, sister, grandparent, daughter-in-law, son-in-law, mother-in-law, father-in-law, sister-in-law, brother-in-law, and significant other living at the same residence.

***Probable Cause:***

Probable cause is defined by determining whether the facts would warrant a reasonable person to believe that a town official, officer or employee violated this Code; the belief should be more than a mere suspicion, but less than proof beyond a reasonable doubt.

***Respondent:***

Any person accused of violating this Code.

***Town Official, Officer or Employee:***

An individual, whether elected or appointed, whether paid or unpaid, full or part time, including members of boards, commissions and committees in the service of the Town.

**Section 4. Conflict of Interest**

- A. Persons governed by this Code shall not be financially interested in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by the board, agency or commission of which that person or persons is or are a member, or of which that person or persons is or are an employee(s). Further, no person governed by this Code shall be financially interested, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by any board, agency, or commission of the Town, or of the Town itself.

- B. A Town official, officer and/or employee shall refrain from voting upon or otherwise participating in any matter on behalf of the Town if he/she, or a member of his/her immediate family, has a financial interest in the transaction or contract, including but not limited to the sale of real estate, material, supplies or services to or by the municipality. Notwithstanding this prohibition, a Town official, officer and/or employee may vote or otherwise participate in a matter if it involves a determination of general policy and the interest is shared with a substantial segment of the population of the Town.
- C. Persons governed by this Code shall not accept or receive, directly or indirectly, from any person or business to which any contract or purchase order may be awarded by the Town or any of its boards, agencies or commissions any money, rebate or gifts, or any promise, obligation, or contract for future reward or compensation.
- D. Persons governed by this Code who have a financial interest in any transactions or contract with the Town, including but not limited to the sale of real estate, materials, supplies or services to the Town, on which that person or persons may be called upon to act in that person's official capacity shall not vote or otherwise participate in the transaction on behalf of the Town. That person (or persons) shall declare on the record that person (or persons) has (or have) a conflict of interest.
- E. Persons governed by this Code shall not request or permit the use of Town owned vehicles, equipment, facilities, materials, or property for personal convenience or profit, except when such are available to the public generally, or as provided pursuant to a municipal policy, collective bargaining agreement and/or authorization by the First Selectman.
- F. No Town official or employee, a member of his/her immediate family or any business with which he/she is associated shall enter into a contract (other than a contract of employment) with the Town unless the contract is awarded through the applicable public process.

**Section 5. Ethics Commission. Members; Appointment; Qualifications; Compensation**

- A. There shall be an Ethics Commission ("Commission") consisting of five (5) regular members and three (3) alternates. The members shall be appointed to investigate specific charge(s) under this ordinance and serve until their investigation is complete and a decision is rendered. The Board of Selectmen shall appoint such members, with no more than three (3) regular members of the same party, and no more than three (3) regular members or alternates of the same party assigned to investigate specific charge(s). The Board of Selectmen will make initial appointments to the Ethics Commission within sixty (60) days of the effective date of this Code.

- B. All members shall be electors of the Town. No member shall (1) hold or campaign for any public office; (2) hold office in any political party; or (3) serve as a member of any other municipal agency, commission or board. A person will not be disqualified from serving on this Commission if he/she has a member of his/her immediate family employed by the Town or the Town Board of Education.
- C. At the initial appointments referenced paragraph A above, the Board of Selectmen shall appoint two (2) regular members for a term of one (1) year; two (2) regular members for a term of two (2) years; one (1) regular member for a term of three (3) years; and three (3) alternate members for a term of three (3) years. Thereafter, as the term of each member of the Commission expires, the successors shall be appointed to serve for a term of three (3) years and until a successor has been appointed.
- D. The Commission shall elect a chairperson who shall preside at meetings of the Commission, a vice-chairperson to preside in the absence of the chairperson and a secretary. Three (3) members shall constitute a quorum. At least three (3) votes of the Commission shall be required for action of the Commission except as otherwise specifically provided for herein.
- E. Members of the Commission will serve without compensation except for authorized expenses in conjunction with their duties.

**Section 6. Duties of Town Attorney/Commission re: Reports, Advisory Opinions, Memoranda, and Regulations, Staff**

- A. The Town Attorney shall: (1) Compile and maintain a record with the Town Clerk of all reports, advisory opinions, statements, and memoranda filed by and with the Commission to facilitate public access to such reports and statements; (2) issue advisory opinions with regard to the requirements of this Code upon the request of any person, provided there is no pending complaint before the Commission on this issue. Advisory opinions rendered by the Town Attorney, until amended or revoked by the Town Attorney at any time shall be binding and shall be deemed final decisions. Any advisory opinion concerning the person who requested the opinion and who acted in reliance thereon, in good faith, shall be an absolute defense in any matter brought under the provisions of this Code; (3) report annually on or before February 1 to the Board of Selectmen summarizing the activities of the Commission; (4) receive complaints and determine whether or not the Commission has jurisdiction.

- B. The Commission will use the Town Attorney or an attorney specially appointed by the Town Attorney for assistance, as needed, in carrying out its duties.

## **Section 7. Complaints, Procedures, Time limits, Investigation; Notice; Hearings**

### **A. Complaints**

The Commission shall receive written complaints of any violation of the Code of Ethics only upon referral by the Town Attorney. The Commission shall have the power and duty to investigate and hear complaints concerning allegations of violations of this Code as set forth herein. The period for filing a complaint shall be the later of one hundred eighty (180) days of the event(s) giving rise to the complaint or one hundred eighty (180) days from the date on which the Complainant actually knew or had access to sufficient information to have constructive knowledge of the event(s) giving rise to the complaint. In no event, however, will the Commission have jurisdiction to hear complaints where the event(s) giving rise to the complaint actually occurred more than one (1) year prior to the filing date.

Complaints of violation of the Code must relate to financial gain or financial interests which are not in the best interests of the Town. The complaint may be made by any person but must be in writing on a form prescribed by the Commission (upon approval of the Town Attorney) and signed under penalty of false statement. Included in a complaint shall be the name of the person accused (Respondent), and also specific acts alleged to constitute the violation of Section IV of this Code, when they occurred, and when the Complainant claims to have obtained knowledge of them. It shall also state whether or not these allegations have been presented to other administrative or judicial authorities. All information supplied to or received from the Town Attorney and/or Commission during evaluation or investigation shall remain confidential, as specified by provisions of the Connecticut General Statutes, Section 1-82a, in relation to operations of an Ethics Commission unless the Commission makes a finding of probable cause for a hearing, or unless the Respondent requests in writing that the entire record and any hearings be open to the public.

### **B. Evaluation and Acknowledgment.**

The Town Attorney shall dismiss the complaint and duly notify the Complainant of said fact and the reasons therefore by registered or certified mail under the following circumstances:

1. The Town Attorney determines that the complaint is not timely filed.
2. The complaint is not in proper form.

3. The allegations, even if true, would not constitute a violation of this Code.
4. The complaint relates to an issue or incident adjudicated (or in the process of adjudication) as part of a previously filed complaint (whether or not filed by the same Complainant).
5. The matter otherwise may be more appropriately addressed through the investigation and disciplinary processes for union and/or non-union employees. The Town Attorney will refer such allegations to the applicable administrative or judicial authority.

If the Town Attorney determines that the complaint is in proper form and the allegations if true would constitute a violation of this Code then the Town Attorney shall, not later than ten (10) business days after said determination, provide a copy of the complaint by registered or certified mail to all Respondents against whom such complaint is filed and shall provide notice of the receipt of such complaint to the Complainant. The Respondent(s) shall have ten (10) business days to submit any response to the Commission. If the Code does apply to the complaint, the Town Attorney shall request the immediate appointment of a Commission by the Town Council.

C. Investigation of Probable Cause-Confidential Investigation

The Commission shall make or cause an investigation to be made sufficient to decide whether there is probable cause to believe a violation of this Code has occurred. The investigation shall be concluded within ninety (90) days. In the conduct of this stage of its investigation, the Commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and to require the production for examination by the Commission of any books and papers as permitted by law which are relevant in any manner under investigation or in question; the Commission may, but is not required to, conduct hearing at this stage of its investigation. During this stage of the investigation, the Respondent(s) shall have the right to offer any information which may tend to clear the Respondent of probable cause to believe that the Respondent has violated any provision of the Code. This investigation shall be confidential pursuant to Connecticut General Statutes Section 1-82a.

D. No Probable Cause

If the Commission finds no probable cause it shall within five (5) business days advise the Complainant and the Respondent in writing of its finding

and a summary of the reasons therefore and the complaint and the record of investigation shall remain confidential.

E. Probable Cause

If the Commission finds probable cause by the concurring vote of four (4) out of five (5) voting members, it shall within three (3) business days after the termination of its investigation and its decision, advise the Complainant and the Respondent of its findings in writing and a summary of the reasons therefore. If there is found such probable cause, the Commission shall make public its finding within five (5) business days after the termination of its investigation and decision thereon and the entire record of the investigation shall become public with the exception for postponement of the release of said record for a period not to exceed fourteen (14) days during negotiations for the resolution of the matter by stipulation, agreed settlement, or consent order and/or as provided for in Section 4-177 of the Connecticut General Statutes as referenced in Section 1-82a(e). It shall also, unless resolved as stated above, fix a date for a hearing on a complaint. It shall give notice of that date to the Complainant and Respondent. Such date shall be not less than thirty (30) days following notice, nor more than ninety (90) days after the finding of probable cause.

F. Hearings

Following a determination of probable cause, all hearings shall be opened to the public and recorded in a manner to be determined by the Town Attorney. Hearings shall not be subject to rules of court or evidence, except all applicable rights under the United States and Connecticut Constitutions, including, without limitation, the rights (i) of an accused to confront and cross-examine his/her accuser, (ii) of every witness or party to be represented by an attorney at law of his/her choice, and (iii) of every witness to decline to answer questions in accordance with the Fifth Amendment to the Constitution of the United States.

The Commission Chairperson, or in his/her absence, another Commission member designated by the Commission to act as Chairperson, shall preside at such hearings, which shall be conducted by the Commission, with the advice and assistance of the Town Attorney, in order to facilitate the prompt and fair disposition of the proceedings. While conducting a hearing under this section, the Commission shall have the authority to administer oaths, examine witnesses, receive oral and documentary evidence. The Commission shall have the authority to issue subpoenas or subpoenas duces tecum enforceable upon application to the Superior Court for the State of Connecticut, to compel attendance of persons at hearings and the production of books, documents, records and papers, pursuant to Sections 7-148(c)(10)(B) of the Connecticut General Statutes, subject to the inherent



power of the Commission to decline or limit such request where it is merely duplicative or is unnecessarily burdensome or harassing and not likely to lead to evidence which will aid the Commission in its determination.

G. Finding/Sanctions

No finding of violation of this Code shall be made except upon unanimous vote of all members of the Commission seated and constituting at least a quorum. The Chairperson shall render the finding of the Commission in writing within thirty (30) days after conclusion of the hearing. A copy of the finding shall be sent at the same time to the Complainant, Respondent, Town Attorney, and the First Selectman of the Town. Upon finding of a violation of any provision of the Code, the Commission will refer the matter to the appropriate appointing or supervisory authority. The authority affected will report within thirty (30) days to the Commission the action taken, if any.

**Section 8. Forms; Education and Training; Distribution of Code**

Upon enactment of this Code, the Town Attorney shall prepare a Complaint form which will be available from the Town Clerk and/or on-line.

The Town Clerk shall cause a copy of this Code, and any amendments or revisions thereto, be distributed to all persons governed by this Code (i.e., every officer, official, agent, contractor, consultant and employee of the Town, and every member of any board, commission or committee of the Town, whether elected or appointed, paid or unpaid) within sixty (60) days after enactment. Any new person governed by this Code applies shall be furnished a current copy of this Code before beginning his/her duties with the Town. Upon enactment of this Code, the Town Attorney shall prepare one or more forms for those governed by this Code to acknowledge receipt of the Code and understanding of their obligations under the Code.

At least every two (2) years, the Commission and/or Town Attorney will provide training and/or written updates on this Code to all governed by this Code. Upon enactment of this Code, the Town Attorney shall prepare an initial set of training materials which will be available from the Town Clerk and/or on-line.

**Section 9. Validity**

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

**Section 10. Date of Effect**

This Code shall take effect \_\_\_\_ days after its passage.

Passed and approved by the legal voters of the Town of North Stonington at the Special Town Meeting held on the 5<sup>th</sup> day of October, 2021.

Published: The Westerly Sun, October 7, 2021

Effective: October 22, 2021

ATTEST: ANTOINETTE PANCARO, Town Clerk