

TOWN OF ANDOVER

Ethics Ordinance

1. Title.

This Ordinance shall be known and may be cited as the "Code of Ethics." It repeals and totally replaces the "Creation of an Ethics Commission for the Town of Andover" Ordinance, previously adopted by the Special Town Meeting on June 1, 2005.

2. Authority

This Code is legally authorized by Connecticut General Statutes section 7-148h, and Town of Andover Charter section 1003.

3. Purpose.

The purpose of this code is to guide elected and appointed Town officials, Town employees and citizens by establishing standards of conduct for public officials and public employees. Public office or employment is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and public employees affects every citizen of the Town, and it must be based on honest and fair deliberations and decisions. Good government depends on decisions which are based upon the merits of the issue and are in the best interests of the Town as a whole, without regard to personal gain. This process must be free from threats, favoritism, undue influence and all forms of impropriety so that the confidence of the public is not eroded. By enacting this Code, the Town of Andover seeks to maintain and increase the confidence of our citizens in the integrity and fairness of their Town government. In pursuit of that goal, these standards are provided to aid those involved in decision making to act in accordance with the public interest, use objective judgment, assure accountability, provide democratic leadership, and uphold the respectability of our Town government.

4. Definitions.

As used in this chapter, the following words or phrases shall have the meanings ascribed to them in this section:

ADVISORY OPINION

A written response by the Board of Ethics to a request by a public official or public employee asking whether his or her own present or potential action may violate any provision of this Code of Ethics.

BOARD

The Town of Andover Board of Ethics established in section 5 of this ordinance.

BUSINESS

Any entity through which business for profit or not for profit is conducted, including a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.

BUSINESS WITH WHICH ONE IS ASSOCIATED

A business of which the person or a member of their immediate family is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stock of any class.

CONFIDENTIAL INFORMATION

Any information, whether transmitted orally or in writing, which is obtained by reason of the public position or office or employment held and is of such nature that it is not at the time of transmission a matter of public record per the Connecticut Freedom of Information Act, C.G.S. section 1-200, et seq., or public knowledge.

EMPLOYEE

Any person receiving a salary, ~~or~~ wages or other compensation from the Town for services rendered.

FINANCIAL INTEREST

Any interest representing an actual or potential economic gain or loss, which is neither trivial nor shared by the general public.

GIFT

Anything of value, including entertainment, food, beverage, travel and lodging given or paid to a public official or public employee, to the extent that a benefit of equal or greater value is not received in return.

A gift does not include:

A political contribution otherwise reported as required by law or a donation or payment as described or defined in subdivision (9) or (11) of subsection (b) of Conn. General Statutes section 9-601a;

Services provided by any person volunteering their time;

A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

A gift received from an individual's spouse, fiancé or fiancée, the parent, brother or sister of such spouse or such individual, or the child of such individual or the spouse of such child;

Goods or services which are provided to the municipality and facilitate governmental action or functions;

A certificate, plaque or other ceremonial award costing less than one hundred dollars;

A rebate or discount on the price of anything of value made in the ordinary course of a business without regard to that person's status;

Printed or recorded informational material germane to governmental action or functions;

Items of nominal value, not to exceed twenty dollars, containing or displaying promotional material;

An honorary degree bestowed upon a public official or public employee by a public or private university or college;

A meal provided at an event and/or the registration or entrance fee to attend such an event, in which the public employee or public official participates in his official capacity;

A meal provided in the home by an individual who resides in the municipality;

Gifts in-kind of nominal value not to exceed \$25.00 tendered on gift-giving occasions generally recognized by the public, provided the total value of such gifts in any calendar year from all donors do not combine to exceed one hundred dollars.

A gift worth no more than \$500.00 made in recognition of a "life event" like a wedding, birth, or retirement.

IMMEDIATE FAMILY

Any spouse, child, parent, sibling or co-habiting partner of a public official or public employee, any other individual who resides in the household of the public official or public employee, and the spouse, child, parent or sibling of any such spouse, child, parent, sibling, co-habiting partner or other individual who resides in the household.

INDIVIDUAL

Any natural person.

INDIVIDUAL WITH WHOM ONE IS ASSOCIATED

Any individual with whom the public official or public employee or a member of their immediate family mutually has an interest in any business.

OFFICIAL RESPONSIBILITY

The direct administrative or operating authority, whether exercised personally or through subordinates, to approve, disapprove, or to otherwise direct Town government action.

PERSON

Any individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

PUBLIC EMPLOYEE

Any person or contractor of the Town of Andover, including the employees of the Board of Education to the extent permitted by law, full or part time, receiving wages or other compensation from or on behalf of the Town for services rendered.

PUBLIC OFFICIAL

Any elected or appointed official, whether paid or unpaid or full or part-time, of the Town or a political subdivision thereof, including members and alternate members of town agencies, boards and commissions, and committees, or any other board, commission or agency that performs legislative, administrative, or judicial functions or exercises financial authority (collectively hereinafter referred to as "body"), including candidates for any such office. Town agencies, boards, commissions and committees that have sufficient authority to qualify as Public Officials subject to the requirements of this Code are the Board of Selectmen, Board of Finance, Board of Education, Regional Board of Education, Planning and Zoning Commission, Inland Wetlands Commission, Zoning Board of Appeals, Fire Commission, Library Board of Directors, Board of Assessment Appeals, Conservation Commission, Recreation Commission, Economic Development Commission, Board of Ethics, Capital Improvement Plan Committee, Ordinance Review Committee, and the Norton Fund Commission.

5. Board of Ethics.

A. There is hereby established a Board of Ethics consisting of three (3) regular members. The members shall be appointed by the Board of Selectmen and shall serve for terms of two (2) years. Terms shall commence on the first day of the month after the date of appointment.

B. Alternate member. In addition to the regular members, the Board of Selectmen shall appoint one (1) alternate member to serve in the absence of any regular member. The term of the alternate member shall be for two years, and begin on the first day of the month following appointment.

C. No more than two (2) of the three (3) regular members shall be of the same political party at any time.

D. All members and alternates shall be electors of the Town. No member or alternate shall (1) hold or campaign for any public office; (2) hold office in any political party committee, candidate committee, exploratory committee, or national committee as those terms are defined in

Connecticut General Statutes section 9-601, as amended; (3) serve as a public official as defined in section 4 of this code; or (4) be a public employee of the Town.

E. Any member of the Board of Ethics shall have an unrestricted right to vote, make political contributions, attend or buy a ticket to fundraising or other political events, identify himself or herself as a member of a political party, be politically active in connection with a question that is not specifically identified with any candidate for any Town office subject to the jurisdiction of the Board of Ethics, such as a referendum or approval of a municipal ordinance, or any other question or issue of a similar character, and otherwise fully participate fully in public affairs. No member or employee of the Board of Ethics shall publicly endorse or publicly oppose any candidate for any Town office subject to the jurisdiction of the Board of Ethics per this Code in a speech, public advertisement, political advertisement, broadcast, campaign literature, or similar action or material; take part in managing the political campaign of any such candidate; or initiate or circulate a nomination petition, work as a driver transporting voters to the polls during an election, or directly solicit, receive, collect, handle, disburse or account for assessments, contributions or other funds for any such candidate; place a sign or sticker supporting or opposing a candidate for any such Town office on real or personal property owned by the placer of such sign or sticker; or become a candidate for any such office.

6. Organization and Procedure.

A. The Board of Ethics shall elect a chairperson who shall preside at meetings of the Board, a vice-chairperson to preside in the absence of the chairperson, and a secretary. In the absence of both the chairperson and vice-chairperson, Board members shall elect a temporary chairperson. Two members shall constitute a quorum. Except for its final determination of a complaint after a hearing per section 8(G) of this ordinance, a majority vote of the Board shall be required for action of the Board. The chairperson, vice-chairperson in the absence of the chair, or any two regular members may call a special meeting of the Board.

B. The Board of Ethics shall (1) Compile and maintain a record of all reports, advisory opinions, statements, and memoranda filed with the Board to facilitate public access to such reports and statements in instances in which such public disclosure is legally permissible; (2) Issue advisory opinions with regard to the requirements of this Code of Ethics upon the request of any public official, employee or agency of the Town regarding whether their own present or potential action may violate any provision of this Code. Advisory opinions rendered by the Board of Ethics shall be binding on the Board and shall be deemed to be final decisions of the Board. Any advisory opinion concerning an official or employee who requested the opinion and who acted in reliance thereon in good faith, shall be an absolute defense in any subsequent matter regarding the same issue(s) brought under the provisions of this Code; The Board may make available to the public such advisory opinions which do not invade personal privacy and take other appropriate steps in an effort to increase public awareness of this Code of Ethics; (3) At or near the end of each calendar year, the Board of Ethics shall prepare and submit to the Board of Selectmen an annual report of its actions during the preceding twelve (12) months and its recommendations, if any. Additional reports, opinions and recommendations may be submitted by the Board to the Board of Selectmen at any time. In all such submissions, the Board shall be careful to protect and uphold the confidentiality of all information regarding cases in which no final determination of violation

has been made; (4) The Board shall prepare materials informing public officials and public employees of their rights and responsibilities under this Code of Ethics.

C. The Board of Ethics shall establish and from time to time amend its own rules and procedures, which shall be made available to the public at the Office of the Town Clerk.

D. The Board of Ethics may utilize or employ necessary staff or outside counsel within available appropriations and in accordance with existing rules and procedures of the Town of Andover.

7. Rules

A. **Outside Business.** No public employee or public official shall engage in or participate in any business or financial transaction, including outside employment with a private business, or have a financial interest, direct or indirect, which is incompatible with the proper discharge of their official responsibilities in the public interest or which would tend to impair their independent judgment or action in the performance of their official responsibilities.

B. **Gifts.** (1) No public employee or public official shall solicit or accept any gift from any person which to their knowledge is interested in any pending matter within such individual's official responsibility. (b) If a prohibited gift is offered, the public employee or public official must refuse it, return it, pay the donor the full value of the gift, or donate it to a non-profit organization provided that the public employee or public official does not take the corresponding tax deduction. Alternatively, it may be considered a gift to the Town of Andover, provided it remains in the Town's possession permanently.

C. **Conflict of Interest.** (1) A public official or public employee shall not vote upon or otherwise participate to any extent in any matter on behalf of the Town of Andover if he or she, a business with which they are associated, an individual with whom they are associated, or a member of his or 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 the Town of Andover. (2) If such participation is within the scope of the official responsibility of the public employee or public official, as soon as possible after they become aware of such conflict of interest, they shall submit written disclosure which sets forth in detail the nature and extent of such interest to their agency or supervisor, as the case may be, and to the Board of Ethics. (3) Notwithstanding the prohibition in subsection (C)(1), a public employee or public official 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 of Andover.

D. **Representing Private Interests.** (1) Except for a public official who receives no compensation for their service to the Town other than per diem payments or reimbursement of expenses, no public employee or public official shall appear on behalf of private interests before any board, agency, commission or committee of the Town of Andover; and (2) no public employee or public official shall represent private interests against the interest of the Town in any litigation to which the Town is a party.

E. **Self representation.** Nothing contained in this Code of Ethics shall prohibit or restrict a public employee or public official from appearing before any board, agency, commission or committee

of the Town of Andover on their own behalf, or from being a party in any action, proceeding or litigation brought by or against the public employee or public official to which the Town of Andover is a party.

F. Confidential information. No public employee or public official shall disclose confidential information, as defined in section 4 of this Code, concerning Town affairs, nor shall such employee or official use such information for the financial interests of himself or herself or others.

G. Use of town property. No public employee or public official shall request or permit the use of Town funds, services, Town owned vehicles, equipment, facilities, materials or property for personal use, except when such are available to the public generally or are provided by official Town policy or contract for the use of such public employee or public official. Enforcement of this provision shall be consistent with the legal obligations of the Town.

H. Contracts with the Town. No public employee or public official, or a business with which they are associated, or member of their immediate family shall enter into a contract with the Town of Andover unless it is awarded per the requirements of prevailing law.

I. Financial Benefit. No public employee or public official may use their position or office for the financial benefit of themselves, a business with which they are associated, an individual with which they are associated, or a member of their immediate family.

J. Fees or honoraria. No public employee or public official acting in their official capacity shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event.

K. Bribery. No public employee or public official, or member of such individual's immediate family or business with which they are associated, shall solicit or accept anything of value, including but not limited to a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the public employee or public official would be or had been influenced thereby.

L. Disclosure. Any public official or employee who presents or speaks to any board, committee, commission or agency during the time set aside during any meeting of any such body for public comment shall at that time disclose their name, address, and Town of Andover public affiliation, regardless of whether said affiliation is related to the matter being addressed by the speaker.

M. Political Activity. No public official or public employee may require or request, or authorize any other public official or public employee to require or request that any subordinate official or employee of the Town actively participate in an election campaign or make a political contribution. No public official or public employee may engage in any political activity while on duty for the Town, or with the use of Town funds, supplies, vehicles or facilities. Political activity includes voting, making political contributions, buying a ticket to fund raising or other political events, taking an active role in connection with a question such as a referendum or approval of a municipal ordinance, or any other question or issue of a similar character, and otherwise participating in political affairs, endorsing or opposing any candidate for public office, taking any part in managing the political campaign of any such candidate; or initiating or circulating a nomination petition, working as a driver transporting voters to the polls during an election, or directly soliciting, receiving, collecting, handling, disbursing or accounting for assessments, contributions or other funds for any such candidate; placing or wearing a sign or sticker supporting or opposing a candidate for any public office, or becoming or acting as a candidate for any public office. No Andover voter may be prohibited from voting at any Town Meeting based on his or her status as

a public official or public employee. Activity legally authorized by Connecticut General Statutes section 9-369b regarding the preparation, printing and dissemination of certain explanatory materials pertaining to referendum proposals and questions is exempt from restriction.

8. Powers and Duties. Complaints and Investigations. Confidentiality

A. Upon the complaint of any person on a form prescribed by the Board of Ethics, signed under penalty of false statement, or upon its own complaint, the Board of Ethics shall investigate any alleged violation of this Code. Unless and until the Board of Ethics makes a finding of a violation, a complaint alleging a violation of this Code shall be confidential except upon the request of the respondent.

B. (1) No later than ten (10) days after the receipt or issuance of such complaint, the Board shall provide notice of such receipt or issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed, and shall provide notice of the receipt of such complaint to the complainant. (2) The Board of Ethics shall review and investigate the complaint to determine whether the allegations contained therein constitute a violation of any provision of the Code. This investigation shall be confidential except upon the request of the respondent. If the investigation is confidential, any allegations and any information supplied to or received from the Board of Ethics shall not be disclosed to any third party by a complainant, witness, designated party, or Board of Ethics member.

C. (1) In the conduct of its investigation of an alleged violation of this Code, the Board of Ethics shall have the power to hold investigative hearings, administer oaths, examine witnesses, receive oral, documentary and demonstrative evidence, subpoena witnesses and require by subpoena duces tecum the production for examination by the Board of any books and papers which the Board deems relevant in any matter under investigation. In the exercise of such powers, the Board may use the services of the police, who shall provide the same upon the request of the Board. Any such subpoena is enforceable upon application to the Superior Court. (2) If any such investigative hearing is scheduled, the Board of Ethics shall consult forthwith with the town attorney or outside counsel authorized by section 7 of this Code. The respondent shall have the right to appear, to be represented by legal counsel and to examine and cross-examine witnesses.

D. (1) If, after investigation, the Board of Ethics determines that the complaint does not allege sufficient facts to constitute probable cause of a violation, the Board shall dismiss the complaint. The Board shall inform the complainant and the respondent of its finding of dismissal by registered or certified mail not later than three business days after such determination of dismissal. (2) After any such finding of no violation, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent. No complainant, witness, designated party, or Board of Ethics or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known.

E. (1) If, after investigation, the Board of Ethics determines that the complaint alleges sufficient acts to constitute probable cause of any violation, then the Board shall send notice of said finding of probable cause to the complainant and respondent by registered or certified mail within three

business days and fix a date for the hearing on the allegations of the complaint to begin no later than thirty (30) calendar days after said issuance of notice, The hearing date regarding any complaint shall be not more than sixty (60) calendar days after the filing of the complaint. (2) If any such hearing is scheduled, the Board of Ethics shall consult forthwith with the town attorney or outside counsel authorized by section 7 of this Code.

F. (1) A hearing conducted by the Board of Ethics shall not be governed by formal rules of evidence. The respondent shall have the right to appear, to be represented by legal counsel and to examine and cross-examine witnesses. Any such hearing shall be closed to the public unless the respondent requests otherwise. (2) In the conduct of its hearing of an alleged violation of this Code, the Board of Ethics shall have the power to administer oaths, examine witnesses, receive oral, documentary and demonstrative evidence, subpoena witnesses and require by subpoena duces tecum the production for examination by the Board of Ethics of any books and papers which the Board deems relevant in any matter under investigation or in question. In the exercise of such powers, the Board may use the services of the police, who shall provide the same upon the request of the Board. Any such subpoena is enforceable upon application to the Superior Court.

G. (1) If, after a hearing on a complaint for which probable cause has previously been found, the Board of Ethics finds by a vote of at least two of its members based on clear and convincing evidence that any violation of this Code of Ethics has occurred, the Board shall submit a memorandum of decision, which may include recommendations for action, to the Board of Selectmen, Town Administrator, and any other appropriate Town agency for such action as they may deem legal and appropriate. (2) The recommendations of the Board of Ethics may include, but not be limited to, any combination of the following: recusal, reprimand, public censure, termination or suspension of employment, removal or suspension from appointive office, termination of contractual status, or the pursuit of injunctive relief. No such recommendation may be acted upon in violation of federal or state law or the Charter, ordinances, legally adopted policies, or collective bargaining agreements of the Town of Andover. Any discussion by the Board of Selectmen or other Town agency regarding any such memorandum of decision shall be in executive session, subject to the requirements of state law, unless the affected individual requests that such discussion be held in open session.

H.. The Board of Ethics shall make public any finding of a violation not later than five business days after the termination of the hearing. At such time, the entire record of the investigation shall become public. The Board of Ethics shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making such finding by registered or certified mail not later than three business days after termination of the hearing.

I. No complaint may be made under this Code except within two years of the date of knowledge of the alleged violation, but no more than four years after the alleged date of any such violation.

J. No person shall take or threaten to take official action against an individual for such individual's good faith disclosure of information to the Board of Ethics under the provisions of this Code. After receipt of information from an individual, the Board of Ethics shall not disclose the identity of such individual without his consent unless the Board determines in the interests of justice that such disclosure is unavoidable during the course of an investigation or hearing.

9. Former Public Officials/Employees

A. No former public employee or public official, as defined in section 4 of this Code, shall appear for compensation before any Town of Andover board, commission or agency in which they were formerly employed or involved at any time within a period of one year after termination of their service with the Town.

B. No such former public employee or public official shall represent anyone other than the Town of Andover concerning any particular matter in which they participated personally and substantially while in the service of the Town.

C. No such former public employee or public official shall disclose or use confidential information acquired in the course of and by reason of their official duties in the service of the Town of Andover, for financial gain for himself or herself or others.

D. No such former public employee or public official who participated substantially in the negotiation or award of a Town of Andover contract obliging the Town to pay \$100,000.00 or more, or who supervised the negotiation or award of such a contract shall accept employment with a party to the contract other than the Town of Andover for a period of one year after such contract is finally executed.

10. Distribution of Code of Ethics.

Copies of this Code of Ethics shall be made available to the Town Clerk for filing and to the Town Clerk and Town Administrator for distribution. The Town Clerk shall cause a copy of this Code of Ethics to be distributed to every public official of the Town of Andover within thirty days of the effective date of this Code or any amendment thereto. The Town Administrator shall cause a copy of this Code of Ethics to be distributed to every employee of the Town of Andover within thirty days of the effective date of this Code or any amendment thereto. Each new public employee and public official shall be furnished a copy of this Code before entering upon the duties of their office or employment.

11. Severability; Conflicts with other Provisions.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter. Furthermore, should any such provisions of this chapter conflict with any provisions of state or federal law, the applicable portions of the state or federal law shall prevail.