

Code of Ethics/Conflict of Interest Ordinance

A. Declaration of Policy.

1. The proper operation of the government of the Town of Southbury requires that public officers, employees, and members of boards, commissions and committees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of the government structure and free from coercive or other improper influence; that public office and employment not be used for personal gain; and that the public have confidence in the integrity of its government.
2. The purpose of this Ordinance is to set forth standards of ethical conduct to assist public officers, employees, members of boards, commissions and committees and persons dealing with them, when they are in the performance of their duties, so as to maintain and enhance a tradition of responsible and effective public service.
3. In the interest of ensuring that concerns regarding possible conflict of interests are promptly raised, this Ordinance permits a concern that a conflict of interest may exist to be raised by any person, regardless of whether the person would be considered an aggrieved party as that term is interpreted under Connecticut law. Any failure to observe the procedures set forth in this Ordinance shall not, however, afford a basis for an action for damages against the Town, any Town board, commission, agency or employee, or any member of any Town board or commission, or for challenging a decision, license, permit or other action of a Town employee, board or commission or member of same by a person who would not, but for the provisions of this Ordinance, have standing to bring such an action.

B. Definitions.

The following definitions shall apply to this Ordinance:

1. Conflict of Interest. A conflict of interest shall be deemed to exist if any Town officer, employee, or member of any board or commission has a financial or personal interest, direct or indirect, in any purchase, contract, transaction, or decision involving his office, board, commission or employment. Indirect interest is defined as an interest in which an officer, member or employee might influence a decision or event so as to achieve gain, financial or otherwise, on behalf of a family member, friend or associate or that creates an actual or perceived monetary or personal indebtedness to any party.

2. Financial Interest. A financial interest shall be deemed to exist if:

- a. Any such officer, member or employee might, directly or indirectly, derive pecuniary or financial gain or suffer loss from any purchase, contract, transaction or decision involving his office, board, commission or employment; or
- b. A business or professional enterprise in which such officer, employee or member has any interest as an owner, member, partner, officer, employee or stockholder or has any other form of participation that will be affected by the outcome of the matter under consideration.

3. Personal Interest. A personal interest shall be deemed to exist if any such officer, member or employee shall have an interest with a person involved in any such contract, transaction or decision by reason of:

- a. Relationship within the fourth degree by blood or marriage; or
- b. Close business relationship; or
- c. An interest that is adverse to the interests of the Town with respect to the matter under consideration.

4. Material Conflict of Interest. A conflict of interest shall be deemed to be material where a reasonable person would conclude that the financial or personal interest:

- a. is incompatible, or would to a reasonable person appear to be incompatible, with the proper discharge of official duties; or
- b. would tend to impair, or would to a reasonable person appear to impair, independence of judgment and action in the performance of official duties.

5. Public Official. An elected or appointed official, whether paid or unpaid, full or part-time, of the Town.

C. Disclosure of Conflict.

1. Any Town officer, employee, or member of any Town board or commission who has a conflict or potential conflict of interest as defined herein, whether or not such conflict or potential conflict is material, shall disclose the interest causing such conflict or potential conflict in writing to the Board of Selectmen.

2. Any member of any Town board or commission who has a conflict of interest, whether or not such conflict is material, shall, in addition to the disclosure required by this Ordinance, disclose the interest causing such conflict to such board or commission, and such disclosure shall be recorded in the board's or commission's minutes.

D. Claim of Conflict.

If a formal written complaint is made to the Board of Selectmen that any Town officer, employee, or member of any Town board or commission has an undisclosed conflict of interest, the Board of Selectmen shall record the claim in its minutes. If such a claim is made against a member of a board or commission, that board or commission also shall record the claim in its minutes.

E. Determination of Materiality.

1. In the event that a disclosure or a claim of a conflict of interest with respect to any Town officer or employee has been made to the Board of Selectmen, and the officer or employee does not disqualify himself from matters with respect to which the conflict of interest allegedly exists, the Board of Selectmen promptly shall inquire into the facts of the matter and determine whether or not a conflict exists and if so, whether it is material.

2. In the event that a disclosure or a claim or a conflict of interest with respect to any member of a Town board or commission has been made to such board or commission, and the member does not disqualify himself from matters with respect to which the conflict of interest allegedly exists, the board or commission shall forthwith determine by a majority of those members present, excluding the member whose interest is in question, whether or not a conflict exists and, if so, whether it is material.

F. Disqualification.

If it has been determined that a material conflict of interest exists, the Town officer, employee or member of any Town board or commission who has the conflict shall be disqualified from discussing or acting upon any matter encompassed by that conflict of interest, and shall leave the room during any public hearing, discussions or deliberations regarding the matter. Any Town officer, employee or member of any Town board or commission may disqualify himself even though the conflict of interest is not material.

G. Gifts and Favors.

No Town officer, employee, or member of any Town board or commission shall accept or receive, directly or indirectly, anything of value (whether by rebate, gift, promise, obligation or contract for future reward or compensation or otherwise) for awarding or influencing the award of any decision, permit, license, contract or purchase order by the Town. Anything of value when in the form of a gift shall not be deemed relevant if the actual cost of that item is less than \$10.00.

H. Representation.

1. Without the prior written consent of the Board of Selectmen or the Town Ethics Commission (if such a Commission has been established), no Town employee or public official shall appear for compensation before any Town board or agency in which he/she was formerly employed or served as an official at any time within a period of one (1) year after termination of his/her service with the Town.
2. Without the prior written consent of the Board of Selectmen or the Town Ethics Commission (if such a Commission has been established), no present or former Town employee or public official shall represent anyone other than the Town concerning any particular matter in which he/she participated personally and substantially while in municipal service.
3. No Town employee or public official shall disclose or use confidential information acquired in the course of and by reason of his/her official duties, for personal and/or financial gain for himself/herself or others.
4. No former Town employee or public official who participated substantially in the negotiation or award of municipal contract or who supervised the negotiation or award of such a contract shall accept employment with a party to the contract other than the Town for a period of one (1) year after such contract is signed.

I. Independent Contractors.

Before hiring any consultant, independent contractor or other advisor, the officer, employee, board or commission that proposes to hire the independent contractor shall inquire whether the independent contractor has any conflict of interest as that term is defined in this Ordinance or as defined in any code of ethics or similar code applicable to the independent contractor. Any such conflict shall be specified in the appropriate Town records (such as minutes of any relevant board or commission). Prior to hiring any independent contractor with a conflict, the officer, employee, board or commission proposing to hire the independent contractor must make a determination that the conflict is not material and/or that despite the conflict, the independent contractor should be hired. The decision and the reasons therefore must be a matter of public record.

No consultant, independent contractor or other advisor of the Town shall represent a private interest in any action or proceeding against the interest of the Town which is in conflict with the performance of his/her duties as such consultant, independent contractor or advisor. No consultant, independent contractor or advisor may represent anyone other than the Town concerning any matter in which he/she participated personally and substantially as a consultant to the Town. Neither shall such consultant, independent contractor or advisor disclose confidential information learned while performing his/her duties for the Town, nor shall he/she use such information for the personal and/or financial interests of himself/herself or others.

J. Procedure.

All claims pertaining to a violation of this Ordinance shall be made, in writing, to the Town Ethics Commission and shall specify the facts of the violation that has been breached. Until such time as an independent Ethics Commission is established, the Board of Selectmen shall perform the duties of an Ethics Commission as follows: (1) the board shall create an ethics subcommittee consisting of two (2) of its members, who shall select a third person who shall be an elector of Southbury but shall not be a Town officer, employee or member of any Town board or commission; (2) such subcommittee shall, after a hearing, make written proposed findings, and shall make a recommendation to the Board of Selectmen as to an appropriate penalty, if any, to be imposed; and (3) the Board of Selectmen shall consider such recommendation, request and consider such additional evidence as they may consider necessary to adjudicate the matter, and render a decision in a timely manner.

Any allegations and any information learned, supplied to or received from or by the subcommittee or independent Ethics Commission shall remain confidential until a finding of a violation is determined by the Board of Selectmen.

K. Penalties.

1. In addition to any penalty contained in any other provision of law, any person who violates any of the provisions of this Ordinance may be censured or reprimanded or may be suspended or removed from office or employment, as the case may be, in the manner provided by law.

2. Any violation of this Ordinance shall render any purchase, contract, or transaction or any part thereof affected thereby voidable by the Board or Selectmen.

3. Any violation of this Ordinance with respect to any decision of a board, commission or committee be subject to such remedies as may be provided by law.

4 The penalties provided above are in addition to any other penalties provided by law to address violations of the provisions of this Ordinance.

L. Concurrent Offices.

1. No official or employee of the Town, full or part-time, shall serve on any board or commission to which the official or employee reports or acts as staff, except as otherwise stated in the Town Charter or Ordinances. Notwithstanding the foregoing, an official or employee may serve on any board, commission or committee in an advisory capacity.
2. Except as otherwise provided in the Charter or by Ordinance, the First Selectman, the Selectmen, the Town Clerk, and members of the Board of Finance shall hold no other Town office, and the provisions of Section 9-210 of the General Statutes concerning incompatible Town offices shall apply to the officers described therein.
3. Subject to the restrictions set forth in applicable law and in Section L. 2 of this Ordinance, nothing in this Ordinance shall prevent the appointment of the same person to more than one office, provided the offices are not incompatible, provided the duties of the offices to which he is appointed may, in the opinion of the Board of Selectmen, be satisfactorily fulfilled by one person, and provided further that inability to fulfill satisfactorily the duties of all offices to which he is appointed shall be cause for removal from any one or more of said offices.

M. Meetings.

1. Members Attendance. Members of all boards, commissions and committees are expected to attend all meetings of such boards, commissions and committees.
2. Alternates' Attendance. Alternate members of all boards, commissions and committees are expected to attend all meetings of such boards, commissions and committees.
3. Voting. All members or seated alternates of all boards, commissions and committees who have not been disqualified shall vote on all matters upon which a vote is held by such board, commission and committee unless there shall be reasonable cause for abstention and said cause is stated and recorded in the minutes of the meeting.
4. Statement of Reasons. In every case where the action of any board, commission and committee is subject to a right of appeal to another administrative body or to the courts of the State of Connecticut, a statement of the reasons for its action shall be included in the minutes of the meeting.