

Chapter 43

ETHICS, CODE OF

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[HISTORY: Adopted by the Annual Town Meeting of the Town of Old Lyme 1-28-2008.
Amendments noted where applicable.]

GENERAL REFERENCES

Boards, committees and commissions — See Ch. 20.
Officers and employees — See Ch. 101

General provisions — See Ch. 180.

§ 43-1. Declaration of policy.

- A. Public office is a public trust. In order for our Town government to function most efficiently, the trust of the public is critical. Public policy developed by government officials and employees impacts every citizen and property owner of the Town and, as such, must be consistently based on honest and fair deliberation and decisions. The process of policy formulation and decisionmaking must be free from threats, favoritism, undue influence and even the appearance of impropriety so that the confidence of the public in our Town government is maintained.
- B. By enacting this code, the Town of Old Lyme seeks to affirm its trust in our governmental officials and our Town policies. It will strengthen and increase the confidence of the citizens, business owners and property owners in the integrity of our government.

§ 43-2. Applicability.

- A. This Code shall apply to all public officials, officers and public employees, whether elected and/or appointed, paid or unpaid.
- B. If any provision(s) of this code shall conflict with a current municipal labor agreement or employment contract, the conflicting provisions of such agreement or contract shall supersede. The remaining provisions of this code shall, however, remain in full force and effect in such case.

- C. A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.
- D. A gift received from:
 - (1) An individual's spouse, fiance or fiancee;
 - (2) The parent, brother or sister of such spouse or such individual; or
 - (3) The child of such individual or the spouse of such child.
- E. Goods or services that are provided to the Town and which facilitate governmental action or functions.
- F. A certificate, plaque or other ceremonial award costing less than \$100.
- G. A rebate or discount on the price of anything of value given in the ordinary course of business without regard to the recipient's status.
- H. Printed or recorded informational material germane to governmental actions or functions.
- I. Items of nominal value, not to exceed \$10, containing or displaying promotional material.
- J. An honorary degree bestowed upon a public official or public employee by a public or private university or college.
- K. Food or beverage provided at an event, or the registration or entrance fee to attend such event, in which the public employee or public official participates in said person's official capacity.
- L. Food or beverage provided in the home by an individual who resides in the Town in which the employee or official serves.
- M. Gifts of nominal value not exceeding \$25 tendered on gift-giving occasions generally recognized by the public, including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations, bar or bat mitzvahs, provided the total dollar value of such gifts from any individual in any calendar year does not exceed \$100.

IMMEDIATE FAMILY — Any spouse, child, parent, fiancee, sibling or dependent relative.

INDIVIDUAL — A natural person.

PAID CONSULTANT — A person, firm or corporation hired by the Town to provide services to the Town for a fee.

PERSON — An individual, sole proprietorship, trust, corporation, union, company, association, firm, partnership, committee, club or other organization or group of persons.

PUBLIC EMPLOYEE — A person employed full or part time by the Town. "Public employee" does not include a public official.

compensation, benefits or performance of personnel, unless such public employee is permitted to vote or participate pursuant to the provisions of state statutes or Town ordinance. This provision shall not prevent the individual from voting on the Town budget as a whole.

E. Incompatible service.

- (1) No public employee or public official shall appear on behalf of private interests before any board, agency, or committee of the Town for which the employee or official serves.
- (2) No public employee or public official shall represent private interests against the interest of the Town for which the employee or official serves, in any litigation to which the Town is a party.
- (3) The provisions of Subsection E(1) and (2) of this subdivision shall not apply to a public official who receives no compensation for service to the Town other than per diem payments and reimbursement expenses.

F. Public employee or public official nonrestrictions. Nothing in this section shall prohibit or restrict a public employee or public official from:

- (1) Appearing before any board or commission of the Town on the employee's or official's own behalf; or
- (2) Being a party in any, action, proceeding or litigation:
 - (a) In which the Town is a party; and
 - (b) That is brought by or against the public employee or official.

G. Disclosure of information. No public employee or public official shall disclose or use confidential information concerning the affairs of the Town for the financial interests of the employee, official or others.

H. Public property use. No public employee or public official shall request, use or permit the use of a vehicle, equipment, facility, material or property, which is owned by the Town for which the employee or official serves, for personal convenience or profit, except when available to the public generally or provided as Town policy for the use of such public employee or public official in the conduct of official business, in which case the public employee or public official may use such vehicle, equipment, facility, or equipment for *de minimis* personal convenience.

I. Public contracts. No public employee or public official, or a business with which he/she is associated, or a member of his or her immediate family shall enter into a contract with the Town for which the public employee or public official serves which has a value of \$1,000 or more unless approved by the First Selectman or by the Board of Selectmen if the First Selectman has a conflict.

J. Financial benefits. No public employee or public official may use the employee's or official's position or office with the Town for which the employee or official serves for the financial benefit of the employee or official, a business with which he or she is

participated personally and substantially while in Town service without prior approval of the Ethics Commission.

C. Disclosure. No former public employee or public official shall disclose or use confidential information acquired in the course of and by reason of the employee's or official's official duties for financial gain for himself/herself or others.

§ 43-7. Ethics Commission.

A. Creation and composition of Ethics Commission. There shall be a municipal Ethics Commission composed of five electors of the Town of Old Lyme and at no time shall more than two members be of the same political party.

- (1) Eligibility. No member of said Commission shall hold or campaign for any public office, be a public official other than as a member of the Commission, or be an officer of Town party committees, as defined in Connecticut General Statutes § 9-601, or officers of political committees required by state law to report to and/or register with the Town Clerk. Any member who, within the last three years prior to receipt of a complaint, shall have held public office or was a candidate for public office for the board or committee or commission involved in that complaint, shall not participate in the investigation or hearing of that complaint.
- (2) Appointment/Removal. The initial Ethics Commission shall be appointed by the unanimous vote of the Ethics Formation Committee. The Ethics Formation Committee will conduct an open solicitation of community-minded individuals and create a pool of candidates based upon their citizenship, political affiliations if any, and business, professional and personal history. Subject to the requirements of this subsection, the Ethics Formation Committee will randomly select and thereafter appoint the above five electors as the Ethics Commission. Thereafter, Commission members shall be appointed and/or vacancies filled by a two-thirds vote of the existing Ethics Commission (appointing authority). Removal from said Commission shall only be by two-thirds vote of the appointing authority or by unanimous vote of the Board of Selectmen. Of the five members of the Ethics Commission initially appointed, three members shall be appointed for the term commencing June 2008 and ending January 31, 2011, and two members shall be appointed for the term commencing June 2008 and ending January 21, 2012. All subsequent appointments and reappointments to the Commission shall be for a term of two years and will end on January 31. If a vacancy occurs as a result of a resignation, the appointing authority will appoint a member to the Commission to complete the unexpired term. Commission members may serve without limitations on the number of terms served. [Amended 7-1-2008]
- (3) Alternate members. The Ethics Commission shall select three alternates to include members of different political parties and/or unaffiliated voters. An alternate member(s) may act in the place of an absent or disqualified Ethics Commission member appointed pursuant to § 43-7A(2) upon majority vote of the Ethics Commission.

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code. The complaint shall be on a form prescribed by the Commission and signed under oath by the individual making said complaint and shall name the person accused (respondent) and shall specify the acts alleged to constitute the violation and when they occurred. Upon the complaint of any person on a form prescribed by the Commission, signed under penalty of false statement, or upon its own complaint, the Commission shall

summary of the reasons therefor. If there is found such probable cause, the Commission shall make public its finding within five business days after the termination of its investigation, and the entire record of investigation shall become public, with exception for postponement of the release of said record for a period not to exceed 14 days during negotiations for the resolution of the matter by stipulation, agreed settlement or consent order and/or as provided for in § 4-177 of the Connecticut General Statutes as referenced in § 1-82a(e). It shall also, unless resolved as stated above, fix a date for a hearing on the complaint and shall give notice of that date to the respondent, such date to be not less than 10 days following notice, nor more than 90 days after the finding of probable cause.

- (6) Hearings. Hearings shall be open to the public. Oral evidence shall be taken under oath. The respondent shall have the right to be represented by counsel, to present evidence and to examine and cross-examine witnesses. Hearings shall be recorded by a stenographer or a recording device provided by the Commission. If the Commission does not provide a stenographer, the complainant or respondent may employ a stenographer at his/her own expense. If a transcript is made, a copy shall be made available to the other party upon payment of 1/2 the cost of obtaining the transcript.
- (7) Finding. No finding of violation of this code shall be made except upon concurring vote of four members of the Commission. The Chairman shall render the finding of the Commission within 30 days after conclusion of the hearing. A copy of the finding shall be sent to the complainant, the respondent, and the Town Clerk.
- (8) Board-initiated complaints. Upon a concurring vote of three or more members, the Commission may initiate its own complaint. In doing so, it is not required that the complaint be sworn.
- (9) Advisory opinions. Reliance by a Town official, officer or employee on an advisory opinion issued by the ombudsman pursuant to § 43-7A(4) shall be considered by the Ethics Commission in any proceeding brought pursuant to this section.

B. Penalties. Violation of any provision of this code shall constitute grounds for, and may be punished by, a) public censure and reprimand; b) in the case of a public employee, recommendations to the Board of Selectmen ranging from suspension from employment with or without pay up to dismissal from employment; c) a civil penalty of not more than \$250 per violation; and/or d) restitution of any pecuniary benefits received because of the violation committed. The Commission will also retain the authority to refer appropriate cases to other venues for proper adjudication (e.g., the police, etc.). At no time will the Commission have the authority to remove elected officials from office.

C. Appeals. The respondent shall have the right to appeal the findings of the Commission within 30 days of receipt of its findings. Said notice of appeal shall be sent by mail or be hand-delivered to the First Selectman. The Appellate Board will consist of the Board of Selectmen. To the extent that the First Selectman exercises his/her right pursuant to Connecticut General Statute § 7-12a to sit as an ex officio member of the Ethics Commission, the First Selectman will be disqualified from sitting on the Appellate