

Town of Franklin

Ordinance to Establish A

Code of Ethics

Public Office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and employees affects every citizen of the municipality, and it must be based on honest and fair deliberations and decisions. This process must be free from threats, undue influence, and all forms of impropriety, so that the confidence of the public is not eroded. By enacting this Code of Ethics, the Town of Franklin seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.

SECTION 1-1: APPLICABILITY

- 1) This Code shall apply to all Town officials, officers, and employees, whether elected and/or appointed, paid or unpaid. The terms of this Code shall apply to all Town Personnel, including, but not limited to, the Office of Selectmen, the Board of Education, Town employees, Town officers, and Town departments in the service of the Town and all other personnel elected and/or appointed to boards and commissions.
- 2) All of the above shall be referred to hereinafter as "persons governed by this Code."

SECTION 1-2: DEFINITIONS

- 1) **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.
- 2) **BUSINESS WITH WHICH S/HE IS ASSOCIATED:** a business of which the person or a members of his/her immediate family is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding class of any class.
- 3) **CONFIDENTIAL INFORMATION:** information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held, and is of such nature that it is not, at the time of transmission, a matter of public record or public knowledge.
- 4) **COMMISSION:** the Town Ethics Commission established in Section 1-4 of this Ordinance.
- 5) **FINANCIAL INTEREST:** any interest with a monetary value of \$100.00 or more, or which generates a financial gain or loss of \$100.00 or more in a calendar year.
- 6) **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 consideration of equal or greater value is not received by the giver from the public official or public employee. A gift does not include:
 - A) a political contribution otherwise reported as required by law or a donation or payment as described in Subdivision 9 or 11 of Subsection B of 9-333b;
 - B) services provided by persons volunteering their time;
 - 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 an individual's spouse, fiance, and fiancée; or from the parent, brother or sister of spouse or fiance or fiancée; or from the child or child's spouse of such an individual;
 - E) goods and services which are provided to the Town and facilitate governmental action or functions;
 - F) a certificate, plaque or other ceremonial award costing less than \$100.00;
 - G) a rebate or discount on the price of anything of value made in the ordinary course of business without regard to that person's status;
 - H) printed or recorded informational material germane to governmental action or functions;

- I) items of nominal value, not to exceed \$10.00, 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) 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;
- L) a meal provided in the home by an individual who resides in the Town;
- M) gifts in-kind of nominal value not to exceed \$25.00 tendered on gift-giving occasions generally recognized by the public, including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations, or bar mitzvahs, provided the total value of such gifts in any calendar year do not exceed \$50.00;
- 7) IMMEDIATE FAMILY: any parent, spouse, child or dependent relative
- 8) INDIVIDUAL: a natural person
- 9) INDIVIDUAL WITH WHOM ONE IS ASSOCIATED: an individual with whom the person or a member of his immediate family mutually has an interest in any business.
- 10) OFFICIAL RESPONSIBILITY: the direct administrative or operating authority, whether intermediate or final, and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct government action.
- 11) PERSON: an individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.
- 12) PERSONAL INTEREST: an interest in any action taken by the Town in which the individual will derive a non-financial benefit or detriment, but which will result in the expenditure of municipal funds.
- 13) PROBABLE CAUSE: 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.
- 14) PUBLIC EMPLOYEE: a person employed, whether part-time or full-time, by the Town or a political subdivision thereof.
- 15) PUBLIC OFFICIAL: an elected or appointed official, whether paid or unpaid, or full-time or part-time, of the Town or political subdivision thereof, including candidates for the office; and shall also include a district officer elected pursuant to Section 7-327 of the Connecticut General Statutes.

SECTION 1-3: CONFLICTS OF INTEREST

- 1) Persons governed by this Code shall not engage in or participate in any business or transaction, including outside employment with a private business, or have an interest, direct or indirect, which is incompatible with the proper discharge of his/her official responsibilities in the public interest, or which would tend to impair his/her independent judgement or action in the performance of his/her official responsibilities.
- 2)
 - A) Persons governed by this Code shall not solicit or accept any gift from any person which to his/her knowledge is interested in any pending matter within such individual's official responsibility.
 - B) If a prohibited gift is offered, s/he must refuse it, return it, pay the donor the full value of the gift, or donate it to a non-profit organization, provided s/he does not take the corresponding tax write-off. Alternatively, it may be considered a gift to the Town provided it remains in the Town's possession permanently.
- 3)
 - A) Persons governed by this Code shall not engage or participate in discussion, voting, or action on any matter brought before him/her or a board that s/he is a member of, that would result in a financial gain or loss to that public official or public employee or his/her immediate family member or business with which s/he is associated
 - B) If such participation is within the scope of the public official or public employee's official responsibility, s/he shall be required to disclose on the record, or provide written disclosure, which sets forth in detail the nature and extent of such interest, to the Ethics Commission.

- C) Notwithstanding the prohibition in Subsection 3A, a public official or public 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 group or population.
 - D) If the above requirements conflict with Section 7-148h of the Connecticut General Statutes, then the latter statute will govern the situation.
- 4) Except for a public official who receives no compensation for his/her service to the Town, other than per diem payments and reimbursements of expenses, no public official or public employee shall:
- A) appear on behalf of private interests before any Town agency, board, or commission; or
 - B) represent private interests against the interest of the Town in any litigation to which the Town is a party.
- 5) Nothing contained in this Code shall prohibit or restrict a public official or public employee from appearing before any board or commission of the Town on his/her own behalf, or from being a party in any action, proceeding, or litigation brought by or against the public official or public employee to which the Town is a party.
- 6) Persons governed by this Code shall not disclose confidential information concerning the Town's affairs, nor shall s/he use such information for the financial interest of himself/herself or others.
- 7) Persons governed by this Code shall not request or permit the use of Town vehicles, equipment, facilities, materials or property for personal convenience or profit, except when such are available to the public generally, or are provided as Town policy for the use of such public official or public employee in the conduct of official business.
- 8) Persons governed by this Code, or business, with which s/he is associated, or member of his/her immediate family, shall not enter into a contract with the Town unless it is awarded through a process of public notice and competitive bidding.
- 9) Persons governed by this Code may not use his/her position or office for the financial benefit of himself/herself, a business with which s/he is associated, an individual with which s/he is associated, or a member of his/her immediate family.
- 10) Persons governed by this Code shall not accept a fee or honorarium for an article, appearance, speech, or participation at an event, in his/her official capacity.
- 11) Persons governed by this Code, or a business with which s/he is associated, or member of his/her immediate family, shall not 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 judgement of the public official or public employee would be or had been influenced thereby.

SECTION 1-4: ETHICS COMMISSION'S MEMBERSHIP, APPOINTMENT, QUALIFICATIONS, VACANCIES AND POLITICAL ACTIVITIES

- 1) There shall be a Town of Franklin Ethics Commission consisting of five members. The members shall be appointed by unanimous vote of the Board of Selectmen for a term of three years, except that, of the initially appointed members, one shall serve for one year, two for two years, and two for three years. Members may continue in office until a successor has been appointed. No more than four shall be members of the same political party.
- 2) All members shall be electors and residents, or non-resident elector taxpayers, of the Town. No member shall:
 - A) hold or campaign for any public office;
 - B) have held public office or have been a candidate for public office for a two-year period prior to appointment;
 - C) hold office in any political party or political committee; or
 - D) serve as a member of any other municipal agency.
- 3) Although any member or employee of the Ethics Commission shall have the unrestricted right to vote, make political contributions, and attend fund-raising or other political events, no member or employee shall publicly support any candidate for any municipal office subject to the Commission's jurisdiction. An individual would be publicly supporting a candidate by, for example, volunteering as a campaign worker, giving a speech at a political event or formally endorsing a candidate.
- 4) The Ethics Commission shall elect a Chair who shall preside at meetings of the Commission, and a vice-Chair to preside in the absence of the Chair. Three members shall constitute a

quorum. A majority vote of the Commission shall be required for action of the Commission. The Chair or any three members may call a meeting.

SECTION 1-5: DUTIES OF COMMISSION

- 1) The Ethics Commission shall:
 - A) compile and maintain a record of all reports, advisory opinions, statements, and memoranda filed by and with the Commission to facilitate public access to such reports and statements;
 - B) issue advisory opinions with regard to the requirements of this Code upon the request of any person; advisory opinions rendered by the Commission, until amended or revoked, shall be binding on the Commission and shall be deemed to be the final decision of the Commission, and 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; and
 - C) report annually on or before February 1st to the Board of Selectmen summarizing the activities of the Commission for the previous calendar year.
- 2) The Commission may adopt rules and regulations not inconsistent with this Code for the administration and implementation of the Code.
- 3) The Commission may employ necessary staff or outside counsel within available appropriations.

SECTION 1-6: COMPLAINTS, PROCEDURES, HEARINGS & DAMAGES

- 1) *Complaints*
 - A) Upon the complaint of any person on a form proscribed by the Commission, signed under penalty of false statement, the Commission shall conduct an inquiry on any alleged violation of this Code.
 - B) Complaints shall include the name of the person accused (Respondent), the specific acts alleged to constitute the violation, the dates the acts occurred, and whether or not these allegations have been presented to other administrative or judicial authorities.
 - C) All information supplied to or received from the Commission during the evaluation and inquiry shall remain confidential, as specified by provisions of Section 1-82a of the Connecticut General Statutes.
 - D) No complaint may be made under this Code except within two years after the violation alleged in the complaint has been committed.
 - E) After receipt of information from an individual, the Commission shall not disclose the identity of such individual.
 - F) No person shall take, or threaten to take, official action against an individual for such individual's disclosure of information to the Commission under the provisions of this Code. After receipt of information from an individual without his consent unless the Commission determines that such disclosure is unavoidable during the course of an inquiry.
 - G) The Commission shall handle complaints in the following stages (as detailed in sections below):
 - 1) receipt, evaluation, acknowledgement, notification
 - 2) confidential preliminary inquiry
 - 3) inquiry findings
 - 4) hearings
 - 5) findings/penalty
- 2) *Receipt, Evaluation, Acknowledgement, Notification*
 - A) When a complaint is received, the Commission shall review, evaluate, and decide whether the complaint is in proper form, and whether the allegations would constitute a violation. The Commission will decide whether it would be more reasonable to refer the matter to another administrative or judicial authority.
 - B) If the complaint is not in proper form, and/or the Commission determines that the allegations, even if true, would not constitute a violation of this Code, the Commission shall dismiss the complaint and duly notify the Complainant of said fact and the reasons therefore, by registered or certified mail.

- C) If the Commission determines that the complaint is in proper form, and the allegations, if true, would constitute a violation of this Code, then the Commission shall, not later than ten 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 Commission shall then conduct a confidential preliminary inquiry to determine if probable cause exists.
- 3) *Confidential Preliminary Inquiry*
- A) If the Commission accepts the complaint, it shall make or cause an inquiry to be made sufficient to decide whether there is probable cause to believe a violation of this Code has occurred.
 - B) The inquiry shall be conducted within ninety days.
 - C) In the conduct of its inquiry of an alleged violation of this Code, the Commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, and request witnesses as proscribed by Section 7-148h of the Connecticut General Statutes.
 - D) During the inquiry, the Respondent(s) shall have the right to appear, the right to have counsel appear on his/her/their behalf, and be heard, and offer any information which may tend to clear the Respondent(s) of probable cause to believe that the Respondent has violated any provision of this Code.
 - E) This preliminary inquiry to determine whether a complaint has probable cause shall be confidential, except upon the request of the Respondent.
 - F) If the inquiry is confidential, any allegations and any information supplied to or received from the Commission shall not be disclosed during the inquiry to any third party by a Complainant, Respondent, witness, designated party, or Commission or staff member.
- 4) *Inquiry Findings*
- A) If the Commission finds no probable cause:
 - 1) The Commission shall advise the Complainant and the Respondent of its findings and a summary of the reasons therefore not later than three business days after termination of the inquiry by registered or certified mail.
 - 2) The Commission shall ensure that the complaint and the record of its inquiry shall remain confidential, except upon request of the Respondent.
 - 3) No Complainant, Respondent, witness, designated party, or Commission or staff member shall disclose to any third party any information learned from the inquiry, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known.
 - B) If the Commission finds probable cause:
 - 1) It must be by the concurring vote of three out of five voting members to find probable cause.
 - 2) The Commission shall advise the Complainant and the Respondent of its findings and a summary of the reasons therefore not later than three business days after the termination of its inquiry and its decision by registered or certified mail.
 - 3) The Commission shall make public its findings not later than five business days after the termination of its inquiry and its decision thereon.
 - 4) At this point, the entire record on the inquiry shall become public, with the exception for postponement of the release of said record for a period not to exceed fourteen 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. The Commission shall give notice to the Complainant and Respondent of the dates of postponement of release of the record to the public.
 - 5) The Commission shall set the date for a public hearing and notify the Complainant and Respondent by registered or certified mail. Such date shall not be less than thirty days after the finding of probable cause.
- 5) *Hearings*
- A) All hearings shall be open to the public and recorded in a manner to be determined by the Commission.
 - B) Hearings shall not be subject to rules of court, except in:
 - 1) the rights of an accused to confront and cross-examine his/her accuser(s);

- 2) the rights of every witness or party to be represented by an attorney-at-law of his/her choice; and
- 3) the rights of every witness to decline to answer questions in accordance with the Fifth Amendment to the Constitution of the United States.
- C) In all other respects, hearings shall be conducted by the Commission.
- D) The Commission may use the advice and assistance of its Counsel, acting through its Chair, in order to facilitate the prompt and fair disposition of the proceedings.
- E) While conducting a hearing of an alleged violation of this Code, the Commission shall have the authority to administer oaths, examine witnesses, and receive oral and documentary evidence as proscribed by Section 7-148h of the Connecticut General Statutes.

6) *Findings*

- A) No finding of violation of this Code shall be made except upon a concurring vote of four out of five voting members of the Commission.
- B) The Chair shall render the finding of the Commission within thirty days after conclusion of the hearing. Copies of the finding shall be sent to the Complainant and to the Respondent.

SECTION 1-7: PENALTIES

- 1) Violation of any provision of the Code shall constitute grounds for, and may be punished by:
 - A) A recommendation to the appropriate appointing or supervisory authority; the affected authority shall report within thirty days to the Commission the action taken, or lack of action, and the reasons therefore.
 - B) Restitution of any pecuniary benefits received because of the violation committed.
 - C) A civil penalty of not more than \$100.00 per violation.

SECTION 1-8: APPEALS

- 1) Any person aggrieved by any final decision of the Commission may appeal such decision in accordance with the provisions of Section 4-175 or Section 4-183 of the Connecticut General Statutes.

SECTION 1-9: PAID CONSULTANTS OF THE TOWN

- 1) Paid Consultants
 - A) No paid consultant of the Town shall represent a private interest in any action or proceeding against the interest of the Town which are in conflict with the performance of his/her duties as a consultant.
 - B) No paid consultant may request anyone other than the Town concerning any matter in which s/he participated personally and substantially as a consultant to the Town.
 - C) No paid consultant shall disclose confidential information learned while performing his/her duties for the Town, nor shall s/he use such information for the financial interests of himself/herself or others.

SECTION 1-10: FORMER PUBLIC EMPLOYEES & FORMER PUBLIC OFFICIALS

- 1) Persons governed by this Code shall not appear for compensation before any Town agency, board or commission in which s/he was formerly at any time within a period of one year after termination of his/her service with the Town.
- 2) Persons governed by this Code shall not represent anyone other than the Town concerning any particular matter in which s/he participated personally and substantially while in municipal service.
- 3) Persons governed by this Code shall not disclose or use confidential information acquired in the course of and by reason of his/her past official duties, for financial gain for himself/herself or others.
- 4) Persons governed by this Code, who participated substantially in the negotiation or award of a Town contract obliging the Town to pay an amount of \$100.00 or more, or who supervised the negotiation or award of such a contract, shall not accept employment with a party to the contract other than the Town for a period of one year after such contract is signed.

SECTION 1-11: ADVISORY OPINIONS

- 1) The Ethics Commission shall provide advisory opinions of ethical questions under the following conditions:
 - A) Requests for advisory opinions shall be made in writing, and the opinion shall be rendered as follows:
 - 1) in writing;
 - 2) by a quorum of members of the Ethics Commission; and
 - 3) at a scheduled meeting of the Commission.
 - B) Advisory opinions shall be provided based on information presented at the scheduled meeting.
 - C) Advisory opinions shall be non-binding on the Requester, the Ethics Commission, and the Town, if information supplied is inaccurate or incomplete at the time the decision was made.
 - D) Advisory opinions may be requested by persons defined as Public Employees, Public Officials, or any person under definitions of this Code.

SECTION 1-12: VALIDITY

- 1) If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged, and the remainder of this ordinance shall remain in full force and effect.
- 2) If any part of this Code conflicts with federal law, or the Connecticut General Statutes, the provisions of the federal law or the Connecticut General Statutes shall prevail.

SECTION 1-13: DISTRIBUTION OF CODE

- 1) The Town Clerk shall cause a copy of this Code of Ethics to be distributed to every Public Official and Public Employee governed by this code within sixty days after enactment of this Code. Each Public Official and Public Employee shall be furnished a copy before entering upon the duties of his office or employment. A signed receipt for all copies shall be returned to the Town Hall and retained on Ethics Commission file.
- 2) No alteration of any part of the foregoing Code of Ethics, which changes the intent of the Code, shall be made without a written agreement between the Board of Selectmen and members of the Ethics Commission.

SECTION 1-14: EFFECTIVE DATE

This ordinance shall become effective upon passage and after notice as provided by law.

PUBLICATION DATE: April 25th, 2001
EFFECTIVE DATE: May 9th, 2001