

## **ADOPTION OF AN ORDINANCE TO ESTABLISH AN ETHICS ORDINANCE AND ETHICS COMMISSION**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GROTON:

### **Section I-Declaration of Policy and Purpose**

Public office is a public trust. The trust of the public is essential for government to function effectively. Therefore, herewith is an established Code of Ethics for all Town officials, officers and employees. The purpose of this code is to establish suitable ethical standards for all such officials, officers and employees by prohibiting acts related to financial gain or financial interests which are not in the best interests of the Town of Groton.

### **Section II-Applicability**

1. This Code shall apply to all Town officials, officers and employees, whether elected and/or appointed, paid or unpaid.
2. All of the above shall be referred to hereinafter as "persons governed by this Code."
3. This Ordinance shall not be applicable if and to the extent it conflicts in whole or in part with the Charter, any labor agreement, employment contract and/or state statute.

### **Section III-Definitions**

"Business" means 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.

"Business with which associated" and similar phrasing means any Business in which a Town official, officer or employee or member of his or her Immediate Family is a director, officer, owner employee, limited or general partner, manager, member, or shareholder, excluding publicly traded Businesses in which such official, officer, employee or his or her Immediate Family member's only association with such entity is as a holder of stock constituting 5% or less of the total outstanding stock of such entity.

"Complainant" means any person who signed a complaint under penalties of false statement alleging a violation of this Code.

"Confidential Information" means 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" means the 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" means pecuniary or material benefit or loss accruing to a person governed by this Code, and/or to a member of his or her Immediate Family and/or a Business in which such person and/or his or Immediate Family member is associated, as a result of a contract, transaction, zoning or other decision or matter which is, or may be, the subject of an official act or action by or with the Town of Groton except for such interests, contracts or transactions which by their terms and by the substance confer the opportunity and right to realize the accrual of similar benefits to all persons, businesses and/or property similarly situated and/or which are shared in common with a substantial segment of the Town's population.

"Gift" means anything of economic value in excess of one hundred dollars (\$100.00) for any one (1) occasion. A gift does not include:

1. A political contribution, reported as required by law or a donation or payment as described in subdivision (9) or (11) of subsection (b) of 9-601a of the Connecticut General Statutes.
2. Services provided by persons volunteering their time.
3. A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.
4. A gift received from a member of a person's immediate family or significant other living at the same residence.
5. Goods or services which are provided to the municipality and facilitate government actions or functions.
6. A certificate, plaque or other ceremonial award.
7. 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.
8. Printed or recorded information germane to government action or functions.
9. An honorary degree bestowed upon a public official or public employee by a public or private university.
10. A meal provided at an event or business meeting and/or the registration or entrance fee to attend such an event, in which a person(s) governed by this Code participates in his/her official capacity.

"Immediate family" means 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.

"On The Record" means in writing, signed and dated or a directive to the secretary taking the minutes of a meeting to note in the minutes of the meeting a special disclosure or statement.

"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" means any person accused of violating this Code.

"Town Official, Officer or Employee" means 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 of Groton. Without limiting the generality of the foregoing, the term "Town Official, Officer or Employee" shall include officers and officials of the Town of Groton Board of Education, but not employees of said Board of Education.

#### **Section IV-Conflict of Interest**

1. Persons governed by this Code shall not discharge their duties owed to or use his or her office, employment and/or position with the Town for the Financial Interest of him/herself, and Immediate Family member and/or any Business in which such person and/or an Immediate Family member is associated, including but not limited to derive a Financial Interest in any contract, transaction or purchase order for supplies, materials, equipment or services between, to be used by or furnished to the Town or any board, agency or commission thereof by any such person, Immediate Family member or Business.
2. a) Except as provided in section 2(b) of this Section IV below, persons governed by this Code shall recuse himself/herself from and refrain from voting upon or otherwise participating in any matter before or on behalf of the Town if he/she, or a member of his/her Immediate Family and/or a Business with which such person and/or his/her Immediate Family member, has a financial interest in the matter, act, transaction or contract at issue, including but not limited to the sale of real estate, material, supplies or services to or by the Town. If such participation is within the scope of such person's official responsibilities to the Town, he or she shall declare on the record that person (or persons) has (or have) a conflict of interest.  
  
b) Notwithstanding the obligations set forth in subsection 2(a) of this Section IV above, a Town official, officer or employee may vote or otherwise participate in a matter if it involves a determination of general policy and/or the interest, contract or transaction is shared in common with a substantial segment of the population of the Town of Groton and/or which by the terms and by the substance confer the opportunity and right to realize the accrual of similar benefits to all persons, businesses and/or property similarly situated. In the event such person has an interest in the matter, but reasonably believes the provision of this subsection 2(b) apply, such person shall still disclose on the

record that nature and extent of such interest, but may otherwise vote and/or participate in the matter.

3. Persons governed by this Code shall not accept any Gift that could reasonably be expected to influence or create an appearance of influencing the actions or judgment of such person in connection with his/her public position, office, duties or employment. Persons governed by this code shall disclose any Gift he or she is aware which involves any member of such person's Immediate Family and/or Business with which such person or member of his or her Immediate Family is associated if such Gift could reasonably be expected to influence or create an appearance of influencing the actions or judgment of such person in connection with his or her Town position, office, duties or employment.
4. 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 and/or, collective bargaining agreement.

#### **Section V-Municipal Ethics Commission. Members; Appointment; Qualifications; Compensation**

1. There shall be a Municipal Ethics Commission consisting of five regular members and three alternates. Members shall be appointed by the Town Council to two-year terms.
2. All members shall be electors of the municipality. 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 the commission if he/she has a member of his/her immediate family employed by the Town or the Groton Board of Education.
3. 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 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.
4. Members will serve without compensation except for authorized expenses in conjunction with their duties.

#### **Section VI-Duties of Town Attorney/Commission re: Reports, Advisory Opinions, Memoranda, and Regulations, Staff**

1. 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 to be 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 Town Council summarizing the activities of the commission; (4) receive complaints and determine whether or not the Ethics Commission has jurisdiction.
2. The Commission will use the Town Attorney or an attorney specially appointed by the Town Attorney for assistance, as needed, in carrying out his/her duties.

## **Section VII-Complaints, Procedures, Time limits, Investigation; Notice; Hearings**

### 1. Complaints.

The Ethics 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 time period for filing a complaint shall be the later of 180 days of the event(s) giving rise to the complaint or 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 of Ethics must relate to financial gain or financial interests which are not in the best interests of the Town of Groton. The complaint may be made by any person but must be in writing on a form prescribed by 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.

## 2. Evaluation and acknowledgment.

A. If the Town Attorney determines that the complaint is not timely filed, is not in proper form, the allegations, even if true, would not constitute a violation of this Code, 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 and/or the matter otherwise may be more appropriately addressed through the investigation and disciplinary processes for union and/or non-union employees, then the Town Attorney shall dismiss the complaint and duly notify the complainant of said fact and the reasons therefore by registered or certified mail. The Town Attorney will refer allegations applicable to other administrative, or judicial authority to the proper authority.

B. 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 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 business days to submit any response to the Commission.

### 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 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 of Ethics. This investigation shall be confidential as specified by provisions of the Connecticut General Statutes, Section 1-82a.

### D. No Probable Cause

If the Commission finds no probable cause it shall within five 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 out of five voting members, it shall within three 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 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 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 days following notice, nor more than ninety 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. The Rules of Evidence and 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 apply.

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 G, the Commission shall have the authority to administer oaths, examine witnesses, and 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 concurring vote of five out of five members of the Commission. The Chairperson shall render the finding of the Commission in writing within thirty 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 Town Manager of the Town of Groton. 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 days to the Commission the action taken, if any.

**Section VIII- 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 IX-Date of Effect.**

This Ordinance shall be effective 45 days after enactment by the Council unless vetoed by the RTM.