



Town of Ellington

Code of Ethics

**Board of Selectmen Approved
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TOWN OF ELLINGTON ~ CODE OF ETHICS

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Section 1. Statement of Purpose

The purpose of the Town of Ellington Code of Ethics is to:

- Provide a Code of ethical conduct to guide its elected officials, appointed officials and employees in the proper discharge of their official responsibilities.
- Provide a Code of Ethics for the prevention of the misuse of one's official position for personal financial gain.
- Provide an independent Commission to hear, review and evaluate complaints under the Code of Ethics which is a critical link between persons subject to the Code and our residents' confidence in ethical Town governance.

Section 2. Definitions

Advisory Opinions: Written opinions of the Ethics Commission regarding whether situations or activities may or may not result in a violation of the Code of Ethics not pertaining to a specific person subject to the Code. (Refer to Section 6 for further details).

Appointed Official: A person who is appointed by the Board of Selectmen to serve on any appointed board, agency or commission of the Town, with or without compensation, in accordance with the Town Charter.

Code: The Code of Ethics adopted by the Board of Selectmen in accordance with Section 925 of the Town Charter.

Complainant: The person who alleges a violation of the Code of Ethics by a person subject to the Code.

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, and not subject to disclosure under the Freedom of Information Act.

Conflict of Interest: A conflict between one's obligation to the Town or the position served and one's self-interest.

Elected Official: A person who is elected by electors of the Town, with or without compensation, to any elected board, agency or commission of the Town in accordance with the Town Charter.

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Employee/Personnel: A person who holds a compensated position of employment with the Town, with the exception of individuals who receive only stipends and/or seasonal workers (Department of Recreation summer help, etc.).

Gift: A payment, subscription, advance, forbearance, rendering of service, deposit of money, or anything of value unless consideration of equal or greater value is transferred in its place.

The term "gift" shall not include: a political contribution otherwise reported by law, services provided to support a political candidate or political party without compensation by persons volunteering their time; a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business; anything of value received because of a family member or other close personal relationship with the donor; an occasional non-pecuniary gift, insignificant in value; an award publicly presented in recognition of public service or any other gift which would have been offered or given to him if he were not a public official or Town employee.

Immediate Family Member: Includes spouse, domestic partner, parents, step-parents, brother, sister, children, grandparents and grandchildren, as well as any other person who permanently resides in the individual's household, whether related or not.

Person Subject to the Code: A person bound by reason of his office or position not to violate the provisions of this Code of Ethics and includes appointed officials, elected officials, employee/personnel, Town Attorney and Town Engineer.

Personal Financial Interest: A direct or indirect pecuniary or material benefit accruing to a person subject to the Code of Ethics or an immediate family member.

Probable Cause: The existence of facts and circumstances within one's knowledge, and of which one has reasonably trustworthy information, sufficient in itself to warrant a person of reasonable caution to believe that a violation of the Code of Ethics has occurred.

Proprietary Interest: A financial asset that is privately owned and/or controlled.

Respondent: The person against whom a complaint is brought.

Usage: When the context so requires, the masculine gender shall include the feminine, and the singular shall include the plural, and the plural the singular.

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Section 3. Ethics Commission - Establishment; Appointments; Terms; Responsibilities and Procedures

In Section 7-148h(a) of the General Statutes, the Legislature of the State of Connecticut delegates to local government units the power to establish a commission to investigate allegations of unethical conduct, corrupting influence, illegal activities or other behavior levied against any elected official, appointed official or employee that would reflect adversely against the interests of the Town of Ellington. Therefore, the Town of Ellington has included in the Town Charter, Section 925, establishing an Ethics Commission as follows:

"The Board of Selectman shall appoint an Ethics Commission, in accordance with the provisions of Section 902 of this charter, consisting of five (5) members to serve staggered terms of four (4) years. The Ethics Commission shall promote and affirm ethical behavior of the Town's boards, commissions, employees, elected and appointed officials. The Ethics Commission shall draft an Ethics Code for the Town for approval by the Board of Selectmen. The Ethics Commission will receive inquiries and requests for advisory opinions from town officials, employees, consultants and residents regarding possible code violations and will respond with formal procedures. The Ethics Commission will review, evaluate, resolve and adjudicate, as appropriate, ethical issues and concerns; disseminate informational and educational materials to enhance public awareness of the code; and maintain open-minded impartiality in all Ethics Commission dealings consistent with the application of precedent and rationale in its decision making."

The Ethics Commission has established the following rules by which it shall function:

- A. Vacancies shall be filled by the Board of Selectmen in accordance with the Town Charter.
- B. The Ethics Commission shall elect a Chairman and Vice Chairman annually.
- C. Three (3) members shall constitute a quorum and a majority vote of the quorum shall be required for action of the Commission with the following two (2) exceptions: any meeting whose purpose is to review and evaluate or make a determination regarding probable cause shall require at least three (3) affirmative votes; to determine a violation of this Code shall require at least four (4) affirmative votes.
- D. The Commission will meet according to the published schedule, but at least quarterly. The Commission will review the Code for revisions and amendments at least annually. The Commission shall keep minutes of its meetings.

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- E. Any amendments to the Code will be made on the recommendation of the Ethics Commission, adopted by the Board of Selectmen and in accordance with the Town Charter, effective as set forth by the Board of Selectmen.
- F. The Commission will establish regulations and procedures for the initiation and handling of complaints.
- G. The Commission may retain independent counsel, as deemed necessary, in accordance with the Town Charter, Section 1013 "Town Attorney" subject to approval of the Board of Selectmen. The independent counsel shall not have a vote in any decision of the Commission.
- H. No Ethics Commission member shall:
 - 1. hold or campaign for any Town public office, paid or unpaid during his term;
 - 2. be a person subject to the Code, with the exception of a person who serves solely as an Ad-Hoc committee member;
 - 3. be a principle party under any contract doing business with the Town;
 - 4. receive any compensation for serving on the Commission, either directly or indirectly;
 - 5. have been a person subject to the Code for a period of one (1) year prior to appointment to the Ethics Commission;
 - 6. have been found in violation of any state, municipal or professional Code of Ethics within the past seven (7) years;
 - 7. participate in any Ethics Commission probable cause review, evaluation or hearing, including the decision and voting process, that involves an immediate family member or the supervisor/employer of that family member;
 - 8. be a member of a Town Political Committee
 - 9. serve on the Ethics Commission for more than two (2) consecutive four (4) year terms. Reappointment to the Ethics Commission must be in accordance with subsection I-5 as stated above, with the exception of the charter members of the Ethics Commission for the purpose of allowing them to serve one (1) complete four (4) year term.
- I. In accordance with Connecticut General Statutes, Section 1-82a, Commission members are required to keep confidential all complaints, allegations, information supplied to or received from the Commission, information learned from any preliminary review or evaluation discussions, decisions and records until such time that the Commission makes a finding of probable cause, except upon the request of the respondent.

All past members of the Ethics Commission are bound to this same rule of confidentiality.

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Section 4. Interest in Conflict with Discharge of Duties and Standards of Ethical Conduct

The requirements herein set forth shall constitute reasonable standards and guidelines for the ethical conduct of persons subject to the Code. The Commission will review and evaluate allegations of unethical conduct levied against any person subject to the Code.

- A. Disqualification in matters involving a personal financial or proprietary interest: No person subject to the Code shall participate in the hearing or decision of the Board or Commission of which he is a member upon any matter in which he or an immediate family member knowingly has a direct or indirect personal financial interest. In the event of self-disqualification, the fact of disqualification shall be entered on the records of the commission or board but not necessarily the reason for disqualification. No person subject to the Code shall appear for or represent any person in any matter pending before the commission or board of which he is a member.
- B. Disclosures:
 - 1. of confidential information: No person subject to the Code shall disclose or use any confidential information concerning the Town of Ellington affairs for the purpose of advancing his or others' personal financial interest.
 - 2. of any personal financial interest: Failure to disclose any personal financial interest in any matter coming before any board, commission, or agency of the Town by any person subject to the Code or failure to disclose their knowledge of an immediate family member who has such a personal financial interest is a violation of this Code. If a conflict does exist, he should recuse himself.
- C. Gifts and favors: No person subject to the Code or member of his immediate family shall solicit or accept any gift with a cumulative value greater than \$100.00, in any one (1) year from any person or organization who, to his knowledge, has a direct or indirect financial interest in any manner in business dealings with the Town. Said \$100 limit shall apply to any and all gifts from all persons within one organization and to any and all gifts from all organizations under common control.
- D. Use of influence: No person subject to the Code shall solicit any business, directly or indirectly, from another official or employee over whom he has any direct or indirect control or influence with respect to tenure, compensation or duties.

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- E. Incompatible dealing: No person subject to the Code shall 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 official responsibilities or which would tend to impair his judgment or action in the performance of his official responsibilities.
- F. Competitive bidding: Persons subject to the Code, or business with which he is associated, or member of that person's immediate family, shall not enter into a contract with the Town unless it is awarded in accordance with the Town Charter, Sections 1108 through 1111.
- G. Use of Town Assets: No person subject to the Code shall use or permit the use of Town funds, services, equipment, owned or leased vehicles, materials or other property for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies.

Section 5. Statute of Limitations

No complaint may be made under this section later than three (3) years after the violation alleged in the complaint has been committed. Complaints involving alleged violations prior to the adoption of this Code will not be considered.

Section 6. Advisory Opinions

The Commission may render an Advisory Opinion with respect to the applicability of the Code regarding specific situations to any person subject to the Code, person serving the Town, persons doing business with the Town and Town residents, pursuant to a written request. The Commission will make available to the public any Advisory Opinions that do not invade an individual's privacy to the extent of the law and may take other appropriate steps in an effort to increase public awareness of this Code. An Advisory Opinion shall provide a defense to any complaint brought before the Commission on that subject unless material facts were omitted or misstated in the request for the Advisory Opinion. An Advisory Opinion Request form may be obtained from the Town Clerk's Office. (Refer to Page 12)

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Section 7. Procedure for Receiving Complaints, Jurisdiction, Preliminary Reviews, Evaluations and Hearings

A. Procedure for Receiving Complaints: Complaints alleging a violation(s) of the Code shall be submitted in writing in the following fashion:

1. All complaints must be submitted using the Ethics Complaint Form. The Ethics Complaint Form can be obtained from the Town Clerk's Office. (Refer to Page 13)
2. The Ethics Complaint Form must be signed, under penalty of false statement, before a Notary. If a person makes a false statement in a complaint, the complainant shall be subject to penalties under the provisions of Connecticut General Statutes Section 53a-157.
3. The Ethics Complaint Form may be submitted to the Commission by delivery in any manner in a sealed envelope to the:

Ellington Town Hall
Town Clerk's Office
Attn: Ethics Commission-Confidential
55 Main Street, PO Box 187
Ellington, CT 06029

4. Upon receipt of the sealed envelope, the Town Clerk's Office shall notify the Chairman of the Commission of such receipt via phone or other methods to ensure notification and forward the sealed envelope to the Ethics Commission Chairman or his designee.
5. All filed complaints must specify the alleged violation act(s), identify the section of the Code that is alleged to have been violated, the dates or approximate dates of such alleged acts, and set forth a summary of the evidence upon which the complainant will rely to support the allegations in the complaint. In summarizing the evidence, the complainant must summarize the nature and content of expected testimony but need not identify any witness other than himself who may testify.
6. Not later than ten (10) business days after the receipt of such complaint by the Town Clerk, the Commission shall provide notice of such receipt by certified mail to the complainant and to the respondent.
7. The Commission will begin its evaluation, as described below, of any complaint(s) alleging a violation of the Code at its next regularly scheduled meeting, or a special meeting if necessary.

B. Jurisdiction

The jurisdiction of the Commission's investigatory powers is limited to alleged violations of the Code.

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The Commission will confirm that the Commission has jurisdiction over the subject matter, the Commission has jurisdiction over the person (respondent), and the complaint states a claim upon which relief can be granted. The Commission will conduct a probable cause review and evaluation of the alleged violation of the Code, unless the evaluation discloses a lack of jurisdiction or subject matter.

If the Commission dismisses the complaint, it shall inform the complainant and the respondent of its finding and provide a summary of its reasons for making that finding within ten (10) business days, by certified mail. If the Commission finds that it has jurisdiction and meets the requirements above, it shall inform the complainant and the respondent of its finding and provide a summary of its reasons for making that finding within thirty (30) business days by certified mail. The Commission's decision of jurisdiction will be final, unless new evidence is introduced, and will be binding on all involved individuals.

C. Probable Cause Determination

In accordance with General Statutes, Section 1-82a, the Commission shall conduct a confidential review and evaluation to determine if probable cause exists that a violation of the Code could have or is occurring. These inquiries may include interviews or discussions with the complainant, respondent, any person subject to the Code, persons serving the Town or persons doing business with the Town or members of other public and private agencies or persons who may have first-hand knowledge relating to the complaint. All probable cause reviews and evaluations shall be held in compliance with Connecticut General Statutes, Section 7-148h(a) seq., as described in Section D. All review and evaluation discussions will be conducted in Executive Session, unless waived by the respondent. There must be facts and circumstances of which the Commission is aware and deems trustworthy sufficient to justify the belief of a reasonable person, that a violation of the Code has been or is being committed and that the respondent is the person who committed it.

At the conclusion of the review and evaluation, the Commission will dismiss the complaint if it finds that there is a lack of probable cause. The Commission shall inform the complainant and the respondent of its findings and decision by certified mail within ten (10) business days.

At the conclusion of the review and evaluation, if the Commission finds that probable cause does exist, by a concurring vote of at least three (3) of its members, the Commission will schedule a violation hearing to determine if a violation of the Code did occur or is occurring. The Commission shall inform the complainant and the respondent of its decision to hold a violation hearing. The complainant and respondent will be notified by certified mail within ten (10) business days. That finding shall become public and be included in the Commission's minutes.

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The Commission's probable cause review and evaluation shall be completed within forty-five (45) business days from the determination of jurisdiction.

D. Hearings After Determination of Probable Cause

The Commission shall have the power to hold violation hearings, administer oaths, examine witnesses, and receive oral and documentary evidence. In accordance with the provisions of Connecticut General Statutes, Section 7-148h(a), it may issue subpoenas or subpoenas duces tecum, enforceable upon application to the Superior Court, to compel the attendance of persons at hearings and the production of books, documents, records and papers which the Commission deems relevant to the hearing process.

No later than the ten (10) days prior to the commencement of any hearing conducted pursuant to this subsection, the Commission, complainant and respondent shall exchange lists of intended witnesses. Failure to give such notice will act as a waiver of the omitting parties' right to present testimony from a witness not on their witness list. The Commission may waive this requirement or reschedule a hearing for good cause shown.

At this violation hearing:

1. The Commission shall make a record of all proceedings conducted pursuant to this subsection.
2. The Commission shall examine witnesses and receive oral and documentary evidence it deems relevant to the matter under consideration.
3. The complainant shall have the opportunity to appear before the Commission to present corroborating evidence and witnesses, who must testify under oath, in support of the allegations in the complaint.
4. The respondent shall have the right to appear and be heard, to present witnesses and offer any evidence which may establish that no violation of this Code exists.
5. The respondent and complainant shall have the right to be represented by legal counsel and to examine and cross-examine witnesses.
6. The Commission shall be governed by the administrative rules of evidence.
7. The Commission shall determine whether or not a violation occurred.
8. The Commission shall inform the complainant and respondent of its findings and provide a written statement containing its decision and reasons for making that decision. This notification will be made by certified mail within ten (10) business days.

The record of its findings shall be made public and be included in the Commission's minutes, within ten (10) business days.

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The hearing shall be completed within sixty (60) business days from the time of the determination of probable cause.

Any of the time limits set forth in this Code are directory and not mandatory and may be extended upon the written request of any party with the approval of the Commission. The extension of a deadline shall automatically extend all subsequent deadlines by the period of the extension unless specifically otherwise provided. The Commission may extend any timeline at its discretion.

The Commission shall maintain a record of all complaints filed. If, in the Commission's opinion, it perceives abuse in the filing of baseless complaints by an individual or organization, the Commission may refuse to take action on future complaints.

Section 8. Penalties

If the Commission determines the respondent has in fact violated the provisions of this Code, it shall file a Memorandum of Decision. This memorandum shall include a recommendation for action by the Board of Selectmen or the Board of Education, as appropriate. The authority affected shall inform the Commission of the action taken or lack of action and the reasons therefore.

- A. The recommended action may include, but not be limited to:
 - 1. Reprimand and/or public censure;
 - 2. Termination, suspension of compensation or suspension of position for not more than ninety (90) days;
 - 3. A penalty of not more than \$250 per violation;
 - 4. Restitution of any pecuniary benefits received because of the violation committed.
- B. No action may be recommended which would violate the provisions of state or federal law. In the case of union employees, such recommended action does not constitute a unilateral change in the conditions of employment. No such recommendation shall limit the authority of the Board of Selectmen or Board of Education under the Town Charter or under any ordinance, statute, or any other law or contract. Any discussion by the Board of Selectmen or Board of Education of an individual affected by the Memorandum of Decision shall be in Executive Session, unless the individual affected requests that such discussion be held in open session and be done in accordance with due process.
- C. Any person who knowingly files a false statement under this Code is subject to prosecution under General Statutes, Section 53a-157b.

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Section 9. Appeal Process

The Commission's finding and its Memorandum of Decision and recommendation for action filed with the Board of Selectmen or the Board of Education is a preliminary step pursuant to this Code. The Board of Selectmen or the Board of Education, as appropriate, may review the record, conduct a further hearing or meeting, permit either complainant or respondent to present further evidence as it finds appropriate. Thereafter, its decision will be final and binding upon both the respondent and the Ethics Commission from which either party who is aggrieved may appeal to the Superior Court under its rules.

Section 10. Distribution of the Code of Ethics

The Town Clerk shall provide a copy of this Code to every person subject to the Code within sixty (60) days after enactment of this Code. Thereafter, each new person subject to the Code shall be furnished a copy before entering upon the duties of his office or employment. This Code shall be made available to the general public at the Town Clerk's Office.

Section 11. Severability

If any section, subdivision, paragraph, sentence, clause or phrase of this Code, or any part thereof is for any reason held to be legally invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery. There is no handwriting or other markings on the page.

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SAMPLE – FORM AVAILABLE IN TOWN CLERK'S OFFICE

ETHICS COMPLAINT FORM

(Page 1 of 2)

Date: _____

Name: _____ Phone #: _____

Address: _____

Town/City: _____ State: _____ Zip Code: _____

Name of Respondent (accused):

Specific acts alleged in violation of the Code and dates when these acts occurred:
Attach additional page(s) if necessary.

Is this matter, or the essential facts, subject to any other court, administrative agency, grievance or disciplinary proceeding anywhere? If so, identify the matter and hearing agency:

Under what Section(s) of the Code is this Complaint made:

For Ethics Commission Use Only:

Date Received: _____ Attachments included: ☐ Yes ☐ No Complaint No. _____

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SAMPLE FORM

ACKNOWLEDGEMENT OF RECEIPT

I hereby acknowledge receiving a copy of the TOWN OF ELLINGTON CODE OF ETHICS adopted by the Board of Selectmen on January 13, 2014 and understand that this ACKNOWLEDGEMENT OF RECEIPT form which I am signing below will be kept in my personnel file or, if not a paid employee, in the Town Clerk's Office.

Printed Name: _____

Signature: _____

Date: _____

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SAMPLE – FORM AVAILABLE IN TOWN CLERK'S OFFICE

ETHICS COMPLAINT FORM

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OATH AND AFFIRMATION

I/we hereby certify that the information included in this Complaint is true and correct to the best of my knowledge upon the pains and penalties of perjury or false statement and all pertinent documentation is submitted as required by the Ethics Commission.

If a person makes a false statement in a complaint, the complainant shall be subject to penalties under the provisions of Connecticut General Statutes Section 53a-157.

Printed Name

Signature

Date

NOTARY PUBLIC:

Subscribed and sworn before me this _____ day _____ of 20____.

Notary
Seal



Commissioner of Superior Court or
Notary Public
My Commission Expires:
