

Town of Durham Code of Ethics

As adopted by the Ethics Commission

September 28, 2009

Section 1: Statement of Purpose

The proper operation of the town government requires that public officers, officials and employees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of governmental structure; that public office and employment not be used for personal gain; and that the public has confidence in the integrity of its government.

The purpose of this code is to set forth standards of ethical conduct for those who serve or conduct business with the Town of Durham; to define those covered by the Code of Ethics; to assist those parties under the jurisdiction of the Ethics Commission by establishing guidelines for their conduct in order to maintain a tradition of responsible and effective public service; and to establish rules of procedure to be followed by the Ethics Commission in receiving, adjudicating and reporting on alleged violations of the Code of Ethics.

Section 2: Definitions

As used in this document, the following words or phrases, unless a different meaning is required by the context or is specifically prescribed, shall have the meanings indicated:

Agency- Includes all departments, boards, commissions and committees of the Town.

Code-The Durham Code of Ethics as amended from time to time.

Confidential Information- Any information concerning the property, business or affairs of the Town not generally available to the public; personnel matters and financial matters that, if disclosed, would be of detrimental interest to the Town or a violation of trust.

Gift- Any thing having a monetary value, including but not limited to entertainment, food, beverage, travel, lodging, given or paid, or any thing of benefit, regardless of monetary value.

A gift shall not include:

1) A political contribution otherwise reported as required by law or a donation or payment as described under State of CT Statutes Code of Ethics for Public Officials subdivision (9) or (10) of subsection (b) of section 9-601a;

2) Goods or services provided by persons volunteering their time if provided to aid or promote the success or defeat of any political party or candidates for public office or position of convention delegate or town committee member or any referendum question;

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 an individual's spouse (or cohabitating individual), fiancé, the parent, brother or sister of such spouse or individual, or the child of such individual or spouse of such child, or grandchildren of such individual or spouse;

5) Goods or services provided to the Town for the use on Town property or to support an event or the participation by a public officer, official or employee at an event and which facilitate Town actions or functions;

6) A rebate, discount or promotional item available to the general public;

7) Printed or recorded informational material germane to Town action or functions;

Immediate family- an individual's spouse (or cohabitating individual), fiancé, the parent, brother or sister of such spouse or individual, or the child of such individual or spouse of such child, or grandchildren of such individual or spouse.

Independent Contractor-any contractor, subcontractor or consultant proposing to provide, currently providing or who formerly provided goods or services to the Town of Durham in exchange for compensation.

Officer, Official or Employee of the Town- Public officers, officials, or employees of the Town of Durham, and members of boards, committees and commissions.

Personal Interest- Any personal interest in any Town matter which goes beyond that of the public generally and shall include any interest arising from a blood or marriage relationship or close business association.

Private Financial Interest- Any actual, or potential, economic gain in excess of that expected to be, or is, derived by members of the public generally and shall include the private financial interest of a spouse or minor child of an officer, official or employee of the Town.

Section 3: Standards of Ethical Conduct

I. Use of Town Assets:

No officer, official, employee of the Town of Durham or independent contractor shall use or permit the use of town funds, services, property, equipment, owned or leased vehicles, or materials for personal convenience or profit, except when such services or assets are available to the public generally or are provided in conformance with established town policies for the use by such officer, official, employee or independent contractor.

II. Fair and Equal Treatment:

No officer, official, employee of the Town of Durham or independent contractor shall grant or accept any special consideration, treatment or advantage to or from any person beyond that which is available to the general public.

III. Conflict of Interest:

No officer, official or employee of the Town of Durham shall engage in any business, employment or transaction, or shall have a private financial interest or personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or which would tend to impair his or her judgment, independence or action in the performance of official duties.

Disclosure and Disqualification in matters involving a private financial interest or a personal interest:

Any officer, official or employee of the Town of Durham who has a private financial interest or a personal interest in any matter coming before any board, commission, committee or agency of the Town of Durham shall make that interest known to such body. Such disclosure shall be included in the official record of the relevant board, commission, committee or agency.

Furthermore, if such officer, official or employee is a member of such body, he or she shall refrain from voting upon or otherwise participating in the body's consideration of the matter. No officer, official or employee of the Town of Durham shall appear for or represent any person in any matter pending before any board, commission, committee or agency of which he or she is a member.

IV. Disclosure of confidential information:

No officer, official, employee of the Town of Durham or independent contractor shall disclose or use any confidential information obtained in an official capacity for the purpose of advancing the private financial interest or the personal interest of themselves or others.

V. Gifts or favors.

No officer, official or employee of the Town of Durham or member of his or her immediate family shall solicit or accept any gift from an Independent Contractor.

VI. Use of influence

No officer, official or employee of the Town of Durham, in furtherance of a private financial interest or a personal interest shall solicit any business, directly or indirectly, from another officer, official or employee of the Town of Durham over whom he or she has any direct or indirect control or influence with respect to supervision, tenure, compensation or duties.

VII. Representation of private interests.

No officer, official or employee of the Town of Durham shall appear on behalf of private interest before any board, commission or agency of the Town, nor shall he or she represent private interests in any action, proceedings or litigation against the town when such appearance or representation would be in conflict with or impair his or her independence or judgment in the performance of the official duties of such officer, official or employee.

VIII. Committee service by members of the Ethics Commission

Members of the Ethics Commission shall not concurrently serve on any other board, commission or committee of the Town of Durham.

Section 4: Application

The Code shall apply to independent contractors and to all public officers, officials and employees of the Town of Durham and members of boards, committees and commissions in the performance of their duties.

Section 5: Receiving Complaints of Violations

A. Generally

The Ethics Commission shall receive complaints from any person of any alleged violation of the Code. Any complaint filed must be in writing on a form prescribed by the Commission and signed under penalties of false statement by the individual making said complaint before:

- (1) A judge of a court of record;
- (2) A clerk or a deputy clerk of a court having a seal;
- (3) A Town Clerk;
- (4) A notary public;
- (5) An attorney admitted to the bar of this state; or
- (6) A justice of the peace.

No complaint may be made under the Code unless it is filed with the Commission within three years after the violation alleged in the complaint has been committed. If multiple violations are alleged, the three-year limitation shall be applied separately to each such alleged violation.

B. Filing of complaint and Jurisdiction

The complaint shall be sent by certified mail or delivered in person to the Chairman, Durham Ethics Commission C/O Durham Town Hall. The Chairman shall provide copies of the complaint to Ethics Commission members, including any exhibits attached thereto. The Ethics Commission shall consider the complaint in executive session within 30 business days after its receipt by the Chairman either at a regularly scheduled Ethics Commission meeting or at a special meeting called for that purpose.

In order to proceed to a probable cause determination, the Ethics Commission shall initially determine the following:

- 1) Whether the person who is the subject of the complaint is under the jurisdiction of the Ethics Commission;
- 2) Whether the act(s) alleged in the complaint, if proven, would constitute a violation of the Code;
- 3) Whether sufficient evidence has been provided to warrant further proceedings.

C. Lack of Jurisdiction

If the Ethics Commission determines that it lacks jurisdiction to proceed with a probable cause determination, it shall so notify the complainant by certified mail and seal the case file.

D. Acceptance of Jurisdiction

If the Ethics Commission accepts jurisdiction, it shall so advise both the complainant and respondent by certified mail and provide a copy of the complaint (and any other information submitted by the complainant) to the respondent. The Ethics Commission shall advise the complainant and the respondent by certified mail that it will conduct a probable cause determination and invite the respondent to provide any information the respondent deems relevant to the Commission's determination of probable cause. Such information must be submitted to the Commission within 21 days of notification.

6: Determining Probable Cause

Within 30 days after the response period specified in Section 5.D, the Ethics Commission shall meet to determine if there is probable cause that a violation of the Code has occurred. In so doing, the Ethics Commission shall only consider the information submitted by the complainant and the respondent.

If the Ethics Commission does not find probable cause of a violation of the Code, it shall so notify both the complainant and the respondent. Such notification shall be made in writing within 3 business days of such determination. Upon a finding of no probable cause, the case file will be sealed and all matters pertaining thereto shall remain confidential.

If the Ethics Commission determines, by three (3) affirmative votes that there is probable cause of a violation of the Code, it shall so notify both the complainant and respondent in writing within 3 business days of such determination.

Within 30 days of a finding of probable cause, the Ethics Commission shall schedule a hearing to determine if a violation of the Code has occurred. The Ethics Commission shall notify both the complainant and the respondent of the date, time and place of such hearing. Such notification shall be made in writing within 3 business days of the scheduling of the hearing.

All notifications under this section shall be sent certified mail, return receipt requested.

Section 7: Hearing Complaints

The Ethics Commission shall conduct a hearing to determine if a violation of the Code has occurred.

The complainant, respondent and, at their discretion their respective counsels, shall appear at the hearing.

All parties and witnesses shall be duly sworn under oath prior to testifying before the Commission.

The complainant shall be allowed to present evidence, including documents and witnesses.

The respondent shall be allowed to examine and cross-examine witnesses presented and be allowed to offer before the Ethics Commission any evidence or witnesses on their behalf.

The Commission shall have the right to question any witnesses appearing before it, and call any other witnesses it considers necessary for a full and complete investigation of the complaint.

The Ethics Commission shall have the power to compel the attendance of witnesses and the production of books, documents, records and papers by subpoena.

The Commission shall schedule additional hearings as needed.

Within 15 business days after the presentation of all evidence, the Ethics Commission shall deliberate and vote upon the complaint. A minimum of four (4) affirmative votes shall be required to make a finding that the respondent has committed a violation of the Code.

Section 8: Report of Findings

Except as required by law to preserve rights of confidentiality, the Ethics Commission shall report to the Board of Selectmen its findings as to whether or not a violation of the Code has occurred, together with recommendations as to the disposition to be made. The Board of Selectmen shall thereupon take such action as it may deem appropriate.

The Chairman shall render the finding(s) and recommendation(s) of the Ethics Commission within 45 days after approval by the Ethics Commission of said findings. A copy of the findings shall be sent to the Board of Selectmen, the Town Clerk, the complainant and the respondent by way of certified mail return receipt requested.

Section 9: Advisory Opinions

Any person subject to the Code may request an advisory opinion of the Ethics Commission with respect to the applicability of the Code. The request shall be submitted on a form prescribed by the Ethics Commission. Such request shall be sent by certified mail or delivered in person to the Chairman, Durham Ethics Commission C/O Durham Town Hall. The request shall give the name and address of the person requesting the advisory opinion. The request shall state clearly and concisely the substance and nature of the request; it shall identify the section(s) of the Code concerning which the request is made, and shall identify the particular aspect thereof to which the request is directed. A statement of facts and any arguments that support a position taken by the person making the request shall accompany the request.

The Ethics Commission shall render its opinion based on the facts presented, and the advisory opinion shall be binding to the extent the representations made in the request are factually accurate.

A copy of the advisory opinion shall be provided to the requestor, who may rely on the opinion subject to the limitations noted in this section.

In the event the information contained in the request is insufficient to allow the Ethics Commission to formulate a meaningful advisory opinion, the request will be returned to the requestor without an opinion.

The Ethics Commission shall file its advisory opinions with the Town Clerk, but with appropriate redactions made in order to protect the privacy rights of the requestor, if such, in the opinion of the Ethics Commission, is necessary.

Section 10: Distribution

The Town Clerk shall distribute copies of a current Code to all officers, officials' employees, and members of boards, commissions and committees of the Town of Durham. Furthermore, all the above named persons shall sign an acknowledgement of receipt of the Code and agreement to abide by its provisions. Record of such distribution and acknowledgement shall be kept on file in the Town Clerks office.

Also, a copy of the Code shall be furnished to all independent contractors to the Town, as that term is defined in Section 2.

Copies of the current Code of Ethics shall be available to the public in the Town Clerks office.