

Memo to: Board of Selectmen, Ginger Fiore  
CC: Board of Ethics  
From: Bob Lessler  
Date: September 4, 2022  
Subject: Technical Corrections to the new Ethics Ordinance

Some incongruities in the new Ethics Ordinance have been pointed out to me. I have compared these notes to the new ordinance and to the various drafts. Accordingly, we should ask the Town Meeting to amend the ordinance in the following ways:

1. Section 52-3(6) makes mention of a subsection (g). There is no such subsection. The reference to (g) should be amended to reference (7) instead. In the drafting process, we changed the section labeling in 52-3 from letters a – g to numbers 1 – 7. The text of what is now 52-3(6) did not pick up the change from (g) to (7).
2. Section 52-2 and 52-6(4) appear to use the terms “associated” and “relative” or “relations” in ways that are inconsistent. “Relative” or “relation” are the wrong terms as they are nowhere defined in the ordinance. “Associated” is defined in 52-2 and includes various relatives. Section 52-6(4) should be amended as follows: Delete “relative” and replace with “associated person” in the second sentence.
3. Section 52-6 should be revised to delete the reference to “relatives” throughout for the reason cited in number 2 above . Accordingly, we should delete from the title of this section “Relatives and”. We should delete the word “relatives” in the first sentence and replace it with “associated persons”. Also, in Section 52-6(6), delete “a family member” in the second sentence and replace it with “an associated person”. In this same section, change the last phrase from, “public servant’s relative, or a person with whom the public servant is associated” to “person with whom the public servant is associated.”
4. Section 52-6(2) and 52-6(5) are inconsistent in their reference to calendar year. In (2) the language is “per calendar year” and in (5) the language is “a calendar year”. In order to be consistent and to avoid any possible confusion, we should amend 52-6(5) to delete “a” and replace it with “per” before the word “calendar”. Alternately, both sections could be changed to “in a” before the word “calendar” if we think that is clearer.
5. Sections 52-11(2) and (3) reference the wrong years for the end of the term. The terms are two years each. However, the ordinance calls for staggered terms which is accomplished by having the initial terms be for 1, 2, and 3 years for the five members appointed as of January 1, 2022. Subsection (2) should be amended to reflect the year as 2023, and subsection (3) should be amended to reflect the year as 2024. We will also need to notify the members appointed for two and three year terms and formally amend those terms.

## **Town of Easton, CT**

**Chapter 52** of the Code of Ordinances of the town of Easton adopted on 3/25/80 is repealed and replaced as follows:

### **Chapter 52. Ethics Ordinance and Conflict of Interests; Workplace Conduct**

#### **Section 52-1. Overview of Ordinance Intent; Purpose**

Public service is a public trust. Prohibitions on the conduct of public servants are enacted not to deter interaction or employment with the Town, but to preserve and enhance the trust placed in the public servants of the Town of Easton. This Ethics Ordinance is intended to prevent a public servant from using their job and official position to benefit themselves or someone else with which they are associated. These prohibitions are designed to promote public confidence in government, and to protect the integrity of government decision making by addressing actual conflicts of interest as well as conduct that can create the appearance of such conflicts when a public servant performs their job.

To that end, there shall continue to be an Ethics Ordinance established in order to acquaint the public with a desired level of ethics in local government; to set suitable ethical standards for all public officials and employees; to set forth general principles of conduct to guide such officials and employees; and to prohibit acts or actions of such officials and employees which are incompatible with the discharge of proper public duties.

Every effort has been made so that the language used in this ordinance is non-binary.

#### **Section 52-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

##### **Associated**

A person or entity associated with a public servant includes a spouse, domestic partner, child, foster child, stepchild, parent, sibling, in-law, or a person with whom the public servant maintains a close familial relationship; a person with whom the public servant has a business or other financial relationship; and, each entity in which the public servant has a present or potential financial or other interest.

##### **Business dealings with the Town**

Any transaction with the Town involving the sale, purchase, rental, disposition or exchange of any goods, service, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's domicile or any ministerial matter.

##### **Confidential**

Personal matters and financial matters which, if disclosed, would be of detrimental interest to the Town and a violation of the trust placed in that public servant. This entails identifying

and recognizing kinds of information: information that may be disclosed with fellow Town employees; information that may be shared with members of the public; not disclosing confidential information acquired in the course of or in performing official duties; and, not using confidential information to benefit yourself, or someone, or an entity, with which you are associated.

### **Duty to Report**

The Town of Easton is committed to maintaining the highest integrity in workplace behavior. Town employees have a duty to report incidents of potential fraud, ethical issues, allegations of and/or witnessing harassment and discrimination in the workplace. The types of matters that can and should be reported within ninety (90) workdays from the date of discovery are the following:

- Embezzlement or misappropriation of assets;
- Intentional accounting omission or misrepresentations;
- Financial statement fraud;
- Internal control problems;
- Bribery, kickbacks and corruption;
- Falsification of contracts, reports or official records and documents;
- Conflicts of interest;
- Theft of inventory, assets, or intellectual property;
- Violation of the law or Town policy;
- Self-dealing;
- Misuse of Town property;
- Vandalism and sabotage;
- Ethics violations or misconduct;
- Human resource concerns;
- Discrimination and Harassment;
- Workplace violence or retaliation;
- Substances abuse;
- Identity theft; and,
- Security of personal information.

This section shall not restrict report of bad acts by a public servant after the ninety-day threshold, nor shall it be construed to restrict or contravene any other applicable law, statute, regulation, litigation, or other legal matter.

### **Financial Interest**

Town employees shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or personal or professional activity or incur any obligation of any nature, which is in conflict with the proper discharge of their duties in the public interest. A public servant should refrain from personal investments that conflict with their official duties and avoid transactions with any entity in which the public servant may have a direct or indirect financial interest.

For the purposes of this ordinance, a “financial interest” is any financial interest, direct or indirect, which is more than nominal and which is not common to the interest of other citizens of the Town. A “nominal” interest is greater than ten thousand (\$10,000) dollars and/or twenty (20 %) percent ownership or other pecuniary interest in an entity.

**Gifts**

A gift is something that has a fair market value greater than \$15. A gift includes, but is not limited to: money, services, gratuities, favor, loans, travel, lodging, meals, refreshments, entertainment, forbearance (agreeing to change the terms for repayment of a debt), or a thing or promise having a monetary value, or in any other form, under circumstances under which it may be reasonably inferred that the gift is intended to influence the Town officer, public servant, employee, or member in the performance of their official duties.

**Impartiality and Integrity**

A public servant shall maintain independent judgment with respect to their position; shall zealously avoid situations in which it may appear to a reasonable person that the public servant could be influenced or would unlawfully attempt to influence another; conduct oneself in a manner that seeks to avoid a reasonable suspicion from members of the public that the public servant is personally benefiting or unwarrantedly benefiting another by means of their official position.

**Indirect Interest**

Includes but is not limited to the interest of any subcontractor in any contract with the Town and the interest of any public servant or a person or entity with which they are associated in any corporation, firm or partnership which has a direct or indirect interest in any transaction with the Town.

**Ministerial Matter**

An administrative act, including the issuance of a license, permit, or other permission by the Town, which is carried out in a prescribed manner and which does not involve personal discretion.

**Public Servant/Town Employee/Town Officer**

Includes any official, employee, agent, consultant, or member, elected or appointed, of any board, department, commission, committee, division, or other unit of the Town of Easton, paid or unpaid, with the exception of employees and agents of the local or Region 9 Boards of Education who shall be governed by regulations of said boards and the General Statutes. For the purposes of this ordinance, the terms “public servant”, “Town employee”, “Town officer” shall be used and interpreted interchangeably.

This ordinance does not apply to residents of the Town of Easton that are not public servants as defined in this section, and who attend, testify, comment, vote, or otherwise interact with the Town at the Annual or a Special Town Meeting, Town referenda, or other legislative assembly.

**Transaction**

Includes the offer, sale or furnishing of any real or personal property, material, supplies or services by any person, directly or indirectly, as vendor, prime contractor, subcontractor or otherwise, for the use and benefit of the Town for a valuable consideration, excepting the services of any person as a Town officer.

**Section 52-3 Conflict of Interests**

No public servant shall engage in any transaction or shall have a financial interest or other personal interest which is incompatible with the proper discharge of their official duties in the public interest or would reasonably tend to impair their independence of judgment or action in the performance of their official duties.

Without limiting the nature and type of potential conflicts of the interest, the following examples of specific conflicts are hereby set forth for the guidance of all public servants:

1. No public servant shall engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of their official duties.
2. No public servant shall request or permit the use of Town owned vehicles, equipment, materials or property for personal convenience or profit except when such are available to the public generally or are provided in Town policy for the use of such Town officer in the interests of the Town.
3. No public servant shall grant any special consideration, treatment, favor or advantage to any person beyond that which is generally available to residents and taxpayers of the Town.
4. No public servant or a person or entity with which they are associated shall accept any gifts, things, favor, loans or promises as previously defined in this ordinance, which might tend to influence the performance or nonperformance of their official duties.
5. No public servant shall, without proper written authorization, disclose confidential information concerning the property, government, or affairs of the Town, and may not use such information to advance the financial or private interest of themselves or a person or entity with which they are associated.
6. No paid public servant shall appear on behalf of a private interest before any board, agency, committee or commission of the Town; nor shall they represent, whether paid or unpaid, a private interest in any action or proceeding against the interest of the Town in any litigation to which the Town is a party, except if subpoenaed as a fact witness, or as noted in subsection (g) below. Nothing herein shall prohibit a

public servant from appearing before any such board, agency, committee or commission on their own behalf.

7. An unpaid public servant may appear, with or without compensation, before a board, agency, committee or commission of the Town other than the Town entity of which they are a member, so long as such appearance does not involve the use of confidential information as described in this ordinance, and such appearance is noted on the public servant's financial disclosure form. Any question involving the ethics of such appearance (as for example, a Member of the Planning and Zoning Commission representing a client before the Zoning Board of Appeals) shall be referred to the Board of Ethics whose determination shall be final.

### **Section 52-4 Gifts**

#### **A. The practice of giving or accepting gifts**

The practice of giving or accepting gifts regardless of innocent intentions can lead to the perception that public servants may be more favorably disposed and responsive to individuals who show their appreciation in a tangible manner. Therefore, no public servant shall knowingly accept or provide, directly or indirectly, any gift, thing, favor, loan or promise which may tend to influence the performance or non-performance of the public servant's duties on behalf of the Town.

1. A notice shall be posted on the Town website and at Town Hall, stating, "Pursuant to Town policy, we cannot accept gifts. We ask you to respect this policy so as not to place the Town's public servants in a compromising or uncomfortable position."
2. Any public servant who is offered an impermissible gift, thing, favor, loan or promise from a known donor should thank the donor for the thought behind the offer, but must decline or return the gift, thing, favor, loan or promise citing this policy.
3. Any public servant who is offered a gift, thing, favor, loan or promise from an unknown donor or one that cannot be returned must discard the item or deliver it to a charitable organization with which the officer is not associated, and may not use that charitable gift for any personal tax purposes.
4. The public servant may not redirect an impermissible gift to a third party, including a person with whom they are associated, or to a charitable organization with which they are associated.
5. Multiple permissible gifts from the same source, even if each individual gift is worth \$15 or less, is impermissible, as it may create an actual or an apparent conflict of interest or an appearance of improper influence.

## **B. Exceptions**

The following are permissible exceptions to the gifts rules, so long as the acceptance does not create an actual or apparent conflict of interest, or give the reasonable impression of improper influence.

1. Awards or plaques in recognition of public service;
2. Honorary degrees;
3. Promotional items with no resale value;
4. Discounts available to the general public;
5. Gifts from family members and personal relationships where it is clear that the relationship is longstanding and is not a pretext to give an otherwise impermissible gift;
6. Meals and beverages provided to participants at professional and educational programs;
7. Local travel payments for tours related to one's official activity;
8. Food or beverage at authorized events, so long as all participants at the event are offered the same or similar food or beverages; and,
9. Complimentary attendance at events, expositions, exhibitions, conferences or other proceedings relevant to the Town employee's work on behalf of the Town.

## **C. Election Campaign Donations**

Nothing in this section shall preclude the solicitation or acceptance of lawful contributions for election campaign purposes, provided that the official accepting such contribution shall recuse themselves from involvement with such donor's business dealings with the Town during such campaign cycle, and for a six-month period thereafter.

## **D. Town Funds**

Town funds may never be used to purchase gifts for employees, vendors, or consultants, except as noted below.

The following exceptions to this policy are as follows:

1. Reimbursement for expenses by a person volunteering their time.
2. A plaque, certificate or ceremonial award costing less than \$150.00 to commemorate a significant life event such as retirement or other employment related milestones.
3. Town funds may be used to purchase candy or cookies for general distribution to employees, vendors, consultants, or the general public and for reasonable quality and quantity of food and non-alcoholic beverages for occasional in-office special events and an annual holiday party.

4. Food and gifts of nominal value if offered to all attendees at conferences, special events and the like attended by Town employees.
5. Food or gifts of nominal value if offered to a department, office, or the Town and not to an individual Town officer; and,
6. Gifts given entirely outside the scope of employment for which it could reasonably be inferred that the gift was not intended to influence official actions or offered as a reward for past official actions.

### **E. Questions**

Any questions about whether or not to make or accept a gift, thing, favor or promise should be referred to the First Selectman for a determination as to propriety. If the donor or recipient is the First Selectman, such inquiry should be brought to the attention of the Board of Ethics. The determination of the First Selectman, or the Board of Ethics, as the case may be, shall be binding and final.

### **Section 52-5 Disclosure of Financial Interest**

1. Any public servant having a financial interest in any transaction with the Town, or in any action to be taken by the Town, shall first divulge and disclose such interest in writing to the committee, board or agency involved, and if no such committee, board or agency is involved, to the Board of Selectmen; and shall further refrain from using their office to exert their influence or vote on such transaction or action. The First Selectman shall determine, and may consult with the Board of Ethics, if recusal of the public servant in such circumstances and in such matter is warranted.
2. Within sixty (60) business days of enactment of this ordinance, the Board of Ethics shall promulgate a financial disclosure form to be completed within sixty (60) days thereafter by the Town's officers, employees, and public servants. All public servants hired or sworn in after such date shall complete such form within sixty (60) days after their starting date of employment or being sworn in.
3. The Board of Ethics may promulgate financial disclosure forms containing differing level of disclosure, relevant to the public servant's job title, job description, and substantive tasks performed on behalf of the Town. The board may modify, amend, or revise these forms in its discretion upon sixty (60) days notice, and shall consult with appropriate Town directors regarding personnel policies and procedures, as well as appropriate collective bargaining agreements.
4. Such form shall be confidential, within the Town's legal ability to assert such confidentiality.



### **Section 52-6 Employment of Associated Persons**

The employment of associated persons within the Town of Easton is permitted subject to the following procedures:

1. Persons who are associated within the meaning of this ordinance, may be employed by the Town of Easton.
2. A “temporary” position is one for no more than a cumulative ten weeks per calendar year.
3. An employee may not be the sole supervisor of a person with whom they are associated for more than a cumulative ten weeks per calendar year.
4. An employee is absolutely prohibited from participating in the hiring of a person with whom they are associated, for a permanent position with or on behalf of the Town. This blanket recusal continues even after the associated person is hired. For example, direct supervision, performance evaluations, or participation in discussions of promotions or raises are also prohibited.
5. An employee may participate in the hiring of a person with which they are associated, for a temporary position in a division other than the employee’s, provided someone from the proposed hiring division is the decision maker in the hiring process. As in permanent hiring matters, direct sole supervision for more than ten weeks per calendar year, performance evaluations, or participation in discussions of promotions or raises are also prohibited.
6. Nepotism is prohibited. Nepotism occurs when a public official or employee authorizes an associated person’s employment or uses their position in any way to obtain a public job for a person with which they are associated. Thus, for example, a public servant may not agree to hire a person with whom another Town employee is associated, on the understanding that the Town employee will hire a person with whom the public servant is associated.

### **Section 52-7 Revolving Door Prohibitions**

“Revolving door” refers to the movement of high-level employees from public-sector jobs to private-sector jobs and vice versa. After leaving public service, high-level employees and officials frequently engage in business dealings with the entities they dealt with in their public service. Alternatively, some private industry officials receive or seek government appointments that relate to their former private posts. This becomes an issue when former government officials utilize connections formed and knowledge attained in public service to enrich themselves or when former private sector employees are overly influential in shaping, watering down, or augmenting pending legislation.

1. Former Town Selectmen are banned for a period of one year from their last date of service from being paid by an outside party to communicate with the Town in an attempt to influence certain actions or proceedings.
2. Former public servants may be paid by the Town if requested to appear or advise on matters relating to their former public employment. The Town Director of Finance shall determine if such appearance and payment are necessary for the benefit of the Town. The Board of Ethics may review said determination.
3. Former Town employees are permanently prohibited from being paid by an outside party to appear in a *specific* proceeding or matter involving *specific* parties (e.g., a lawsuit, administrative law hearing, or a contract) in which the official previously and *substantially* participated.

All public servants are prohibited from making, participating in making, or influencing a Town-related decision that directly relates to a prospective employer.

### **Section 52-8 Discrimination and Harassment**

Connecticut fair employment laws prohibit discrimination, including sexual harassment and harassment based upon the following legally protected classes: race, color, creed, age, sex, pregnancy, sexual orientation, gender identity or expression, marital status, national origin, ancestry, intellectual disability, genetic information, learning disability, physical disability, including but not limited to blindness, mental disability (past/present history thereof), military or veteran status, or criminal record.

These state laws cover all public and private employers that employ three or more people. The Connecticut Commission on Human Rights and Opportunities has the primary responsibility for administering and enforcing these laws.

The Town of Easton accordingly follows and adheres to these laws. Violation of such is a violation of workplace conduct. The Town is committed to maintaining a professional work environment that is free of harassment and discrimination.

### **Section 52-9 Political Activities**

All Town officials and employees are free to engage in political activity to the extent permissible by current law, and consistent with the proper discharge of their official duties. Town employees are to be treated with respect, and likewise, provide fair and equal treatment of all townspeople and any others the public servant may encounter. There are limitations upon political activity, as follows:

1. No Town official, employee, or other public servant may allow partisan political activity to interfere with or to affect, directly or indirectly, the proper discharge of their official Town duties. This section does not apply to routine appointments to

boards or commissions of the Town where political party registration is a factor, as for example, appointment to the Board of Ethics.

2. No Town employee may be ordered or required, directly or indirectly, to participate in political activities.
3. No Town employee may, while on official business, display at their workstation, or wear any clothing, symbol, pin, or any other sign or representation of partisan political preference.

### **Section 52-10 Acknowledgement**

Within sixty (60) days after enactment of this ordinance, every Town employee, and every newly hired, appointed, or elected public servant, shall sign and file with the First Selectman an acknowledgement form supplied by the First Selectman, indicating their awareness of and review of the provisions of this ordinance.

Within (60) days after enactment of this ordinance, every consultant and person having business dealings with the Town of Easton shall sign and file with the First Selectman an acknowledgement form supplied by the First Selectman, indicating their awareness of the provisions of this ordinance. The First Selectman shall forward an additional copy of the form to be filed with the Town board, commission, committee or agency that retains the consultant or person having business with that Town unit.

### **Section 52-11 Board of Ethics**

There shall continue to be a Board of Ethics in and for the Town which shall be charged with the administration of this ordinance and which shall consist of five (5) members, one of whom shall serve as chair. Not more than three (3) of said members shall be of the same political party, and none of whom shall hold any of the elected or appointed Town offices, or be a Town employee, or be a member of the Town committee of any political party.

1. One member of the board shall serve a one -year term commencing January 1, 2022, and ending December 31, 2022.
2. Two members of the board shall serve a two-year term commencing January 1, 2022, and ending December 31, 2023.
3. Two members of the board shall serve a three-year term commencing January 1, 2022, and ending December 31, 2024.
4. Members of the Board of Ethics shall thereafter be appointed for a two (2) year term. No member may serve more than six (6) successive (consecutive) years.
5. The members of the board shall, by majority vote of the board, elect a chair.

6. The board shall promulgate and adopt reasonable rules and regulations for the administration of its proceedings. The rules and regulations so promulgated and all amendments thereto shall be made available at the office of the Town Clerk to any elector of the Town, and shall be prominently posted on the Town website.
7. Within sixty (60) days after enactment of this ordinance, the board shall post a video on the Town website explaining the parameters of this chapter. All public servants are required to annually view this ethics video, and to sign and file an acknowledgement form supplied by the board, indicating their compliance therein.

### **Section 52-12 Adjudicatory and penalty powers of the Board of Ethics**

1. The board shall receive all complaints, in writing, of violation of this ordinance, shall investigate the same and, after giving the public servant concerned an opportunity to be heard, shall, within thirty-five (35) workdays make such findings and recommendations as it may deem appropriate in each case to the Board of Selectmen, including penalties as appropriate, and consistent with any other applicable rules and regulations. The board may request of the Board of Selectmen additional time to investigate allegations of this ordinance, which shall not be unreasonably denied. The Board of Selectmen shall, thereupon, take such action as it may deem appropriate.
2. Pending the hearing and determination of charges of violation of this ordinance, the public servant against whom such charges have been referred may be suspended with or without pay for a period not exceeding thirty-five (35) workdays. Such determination shall be made by the first selectman after consultation with the public servant's board, department, commission, committee, division or other unit appointing authority or head, and in accordance with any applicable collective bargaining agreement.
3. If such public servant is found guilty by the Board of Ethics of the charges, the penalty or punishment may consist of a private or public reprimand, a fine to be determined by the board not to exceed twenty-five thousand (\$25,000) dollars, suspension without pay for a period not exceeding sixty (60) workdays, demotion in grade and/or title, rescission of the consultancy, payment to the Town of any financial gain realized as a result of the violation, dismissal from Town employment or forfeiture of membership, whether paid or unpaid, elected or appointed, from any board, department, commission or committee, with the exception of employees and agents of the local or Region 9 Boards of Education who shall be governed by regulations of said boards and the Connecticut General Statutes. This section shall be in accordance with any applicable collective bargaining agreement.
4. If the public servant is found not to have violated the charges referred, they shall be restored to their position with full pay for the period of suspension less the amount of any unemployment insurance benefits received during such period.

5. If the public servant against whom charges have been referred is the First Selectman, then the Board of Ethics shall have plenary power to determine the scope and manner of its investigation and shall also possess unilateral power of suspension of the First Selectman from office, as well as other penalties if any, to be imposed.
6. Upon written request of any public servant, said board shall render an advisory opinion in writing to such public servant with respect to this ordinance, and may publish same with appropriate redactions so as to ensure confidentiality, and to provide guidance to other Town employees.

Approved by the Board of Selectmen on September 1, 2021  
Adopted by Town Referendum on September 21, 2021  
Published in the Fairfield Citizen on October 1, 2021