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Chapter X
CODE OF ETHICS

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TOWN AND CITY CLERK

§ X-1. Declaration of policy.

- A. Public service is a public trust, and the trust of the public is essential for government to function effectively. Those who are elected, appointed, hired or volunteer as representatives accept a public trust. The public has a right to expect that every official and employee, whether appointed or elected, paid or unpaid, will behave in a manner that will tend to preserve public confidence and foster respect for the government the official or employee represents. Therefore, every official and employee is expected to treat all citizens in an impartial, honest, responsible, open, and courteous manner at all times.
- B. Public trust also requires that the government be conducted in an open manner, when appropriate, so that the official actions of public servants may be subject to public scrutiny and so the members of the public may have access to the information upon which decisions and policies affecting them are made. However, public trust also requires that government be conducted in a manner which respects the rights of its constituents to privacy and confidentiality. Public trust also requires that acts which are contrary to the public interest be defined and prohibited; that there be an orderly procedure for raising and addressing ethical questions; that ethical behavior be encouraged, and that unethical behavior be discouraged and suitably disciplined through a process that is fair and equitable.
- C. Officials and employees shall make governmental policies and decisions following proper procedure and through the proper channels of government. Policies and decisions shall be made free from coercion or other improper influence; and all officials and employees shall use their office or employment in the best interests of the City, its residents and its taxpayers rather than for personal interest, and avoid both actual and potential conflicts between their individual self-interest and the public interest.
- D. City employees, elected officials and appointed board and commission members are expected to adhere to high ethical standards in the performance of their duties as officials and employees. Officials and employees are expected to treat everyone – other officials and employees, taxpayers, residents and the general public as a whole – with the utmost dignity and respect. However, by accepting the duties and obligations of public service, officials and employees, particularly those who volunteer their time and talents to help make West Haven a better City, do not relinquish their right to be treated with the same dignity and respect as other citizens.
- E. The principal policy which forms the foundation of this chapter is to encourage internal commitment by establishing and maintaining a work environment which supports integrity. Such a work environment includes public servants who:
 - (1) Recognize with gratitude that the primary reason to hold a public position is to serve the public;
 - (2) Recognize with pride that they hold their public position because the public trusts them;

- (3) Are fair and impartial in serving the public and each other in the performance of their duties;
- (4) Are familiar with the principles of ethics; and
- (5) Encourage ethical practices which protect, advance, and promote the public interest above all else.

§ X-2. Applicability.

- A. This Code shall apply to all current officials and employees, whether elected or appointed, paid or unpaid, full time or part time, as well as former officials and/or employees when specifically stated in this Code.
- B. If one or more sections or provisions of this Code conflicts with any state or federal law, statute, rule, City Charter, regulation or order of any court of competent jurisdiction, the law, statute, rule, City Charter, regulation or court order shall prevail.
- C. If any section, subsection, paragraph, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remainder of the Code, which shall remain valid, applicable and in effect.

§ X-3. Definitions; word usage.

Note: Throughout this Code, any word used in the singular or plural, and in the masculine, feminine or neutral, shall be either singular or plural, and masculine, feminine or neutral, as the context may indicate or require.

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

- A. **ADVISORY OPINION** — A formal, written opinion of the Board of Ethics with respect to the applicability and/or interpretation of this Code of Ethics, issued in response to a formal, written request.
- B. **BOARD** — The Board of Ethics of the City of West Haven.
- C. **BUSINESS** — Any entity through which business for profit or not for profit is conducted, including but not limited to, a corporation, partnership, limited liability company, proprietorship, enterprise, franchise, association, trust organization, sole proprietorship, or self-employed individual.
- D. **CHAIR** — The Chairperson of the Board of Ethics.
- E. **CITY** — The City of West Haven, Connecticut, and includes all boards, commissions, committees and departments thereunder.
- F. **CODE** — This Code of Ethics as the same may be amended from time to time at the request of the Mayor and with the Approval of the City Council.

- G. COMMISSION — Any board, commission, committee, or authority created and existing pursuant to, or by authority of, the Charter and/or Ordinances of the City of West Haven.
- H. COMPLAINANT — Any individual who files a complaint pursuant to this Code.
- I. COMPLAINT — A written statement, including any exhibits thereto, filed pursuant to this Code, alleging that an official or employee or a former official or employee has engaged in unethical conduct.
- J. CONFIDENTIAL INFORMATION — Any and all information, oral or written, including electronic files, which the official or employee comes to have as a result of his office or employment and which falls within a category of permissibly nondisclosable information under the Freedom of Information Act, and which the appropriate City department, board or commission has decided not to disclose to the general public, except information in the public domain; information generally available to the public by publication or otherwise, or information that becomes general knowledge.
- K. CONSULTANT — An independent contractor or professional person or firm that is engaged by and/or receives compensation from the City or the Board of Education for the purpose of providing professional, scientific, technical or other specialized opinion and is in a position to influence any decision of a commission, official or employee.
- L. CUSTOMER OR CLIENT — In §X-4C means:
- (1) Any person or entity to which an official has supplied goods or services during the previous two years, having, in the aggregate, a value greater than \$1,000; or
 - (2) Any person or entity to which an official's outside employer or business has supplied goods or services during the previous two years, having, in the aggregate, a value greater than \$1,000, but only if the official knows or has reason to know the outside employer or business supplied the goods or services.
- M. DEPARTMENT — Any formal municipal department of the City of West Haven
- N. DOMESTIC PARTNER — An adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive, committed relationship, maintains a mutual residence, and shares basic living expenses.
- O. EMPLOYEE — Any paid employee, whether full time or part time, of the City of West Haven.
- P. GIFT —
- (1) Any thing or group of things having a monetary value, individually or in the aggregate, which exceeds \$100.00 in any calendar year, including but not limited to entertainment, food, beverage, travel, lodging, given or paid to the extent that consideration of equal value is not received by the donor.
 - (2) Any thing or benefit, regardless of its monetary value, perceived or intended by either the one who offers or the one to whom it is offered to be of sufficient value

to influence an official or employee in the performance or nonperformance of an official action.

(3) Gift shall not include:

- i. A political contribution otherwise reported as required by law or a donation or payment as described in Conn. Gen. Stat. §§ 9-333b(b)(9) or (10);
- ii. Services provided by persons volunteering their time;
- iii. A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;
- iv. A gift received from:
 1. A spouse or his/her fiancé; or
 2. The parent, brother or sister of the spouse of such individual; or
 3. The child of such individual or the spouse of such child;
- v. Goods or services:
 1. Which are provided to the City:
 - a. For use on City property; or
 - b. To support an event or the participation by an official or employee at an event; and
 2. Which facilitate City action or functions.
 3. As used in this subsection, "City property" means property owned, leased or licensed by the City;
- vi. A certificate, plaque or other ceremonial award costing less than \$100.00;
- vii. A rebate, discount or promotional item available to the general public;
- viii. Printed or recorded informational material germane to City action or functions;
- ix. A gift, including but not limited to food or beverage, typically provided by an individual for the celebration of a life event;
- x. Gifts costing less than \$100.00 in the aggregate or food or beverage provided at a hospitality suite at a meeting or conference of a legislative association, by a person who is not a registered voter or is not doing business with the City;

- xii. Anything of value provided by an employee or an official, an employee or a spouse of an official or employee, to such official, employee or spouse, provided such benefits are customarily and ordinarily provided to others in similar circumstances.
- xi. Admission to a charitable, civic or political event, including food and beverage provided at such event, and when such event is out of state, reimbursement for lodging and/or travel expenses, at which an official or employee participates in his official capacity, provided such admission and/or reimbursement is provided by a sponsoring entity;
- Q. HOUSEHOLD — Includes anyone whose primary residence is in the employee's or official's home, including non-relatives who are not rent payers or employed in the employee's or official's home.
- R. IMMEDIATE FAMILY — Includes a spouse or domestic partner, children, stepchildren, parents, stepparents, brothers and sisters, stepbrothers and stepsisters, spouses of children or stepchildren and grandparents and grandchildren.
- S. INTEREST — A relationship to a contract, transaction or decision such that a direct or indirect financial or other material benefit has been, will be, or might be received as a result of that contract, transaction or decision. The employee or official does not need to be a party to the contract, transaction or decision to have an interest in it. Indirect benefit includes a benefit to any of the parties listed in § X-4C.
- T. OFFICIAL — Any holder of public office, elected or appointed, paid or unpaid, including any member of a board, commission, authority, or committee of the City.
- U. OUTSIDE EMPLOYER OR BUSINESS — Includes:
 - (1) Any substantial business activity, other than service to the City;
 - (2) Any entity, other than the City, of which the official is a member, official, director or employee;
 - (3) Any entity located in the City or which does business with the City, in which the official has an ownership interest, except a public corporation in which the official's ownership interest is the lesser of:
 - i. Stock valued at less than \$50,000; or
 - ii. Five percent of the outstanding stock; and
 - (4) Any entity to which the official owes, or by which the official is owed, more than \$10,000, either in the form of a note, a bond, a loan, or any other financial instrument.
- V. PARTICIPATING — Includes any discussion, correspondence, rendering of advice, investigation, approval, disapproval, making motions, voting, or otherwise influencing or being involved with a decision or action.

W. RESPONDENT—An official or employee or a former official or employee who is alleged to have violated this Code.

§ X-4. Specific provisions.

- A. Impartiality. All officials and employees shall discharge their duties and responsibilities impartially. No official or employee shall use or attempt to use his position to obtain any special treatment or advantage, for himself or others, beyond that which is available to the general public or to any other member of a profession, occupation, organization or group. No official or employee shall publicly disparage or defame any other official, employee, resident or taxpayer.
- B. Use of City property. No official or employee shall request, use or permit the use of any City property, vehicle, equipment, material, labor or service, either for himself or another, beyond that which is available to the general public or to any other member of a profession, occupation, organization or group. This provision shall not preclude the use of any City property that is provided or entrusted to the official or employee as a matter of stated public policy or public convenience in the conduct of City business.
- C. Conflicts of interest. An official or employee shall not use his office or position, or take any action, or vote on any matter, or participate in discussion of any matter, or attempt to influence others to take any action, in a manner which he has reason to believe or expect may result in a personal or financial benefit or a personal or financial detriment that is not shared with a substantial segment of the City's population, for or on behalf of any of the following persons or entities:
 - (1) Himself or his outside employer or business;
 - (2) A member of his immediate family, his dependents, nieces or nephews, aunts or uncles, or the employer or business of any of these people;
 - (3) A customer or client;
 - (4) A nongovernmental civic group, union, social, charitable, or religious organization of which he, or a member of his immediate family, is an officer or director.
- D. Disclosure of interest and recusal. An official or employee who has an interest in any pending matter shall abstain from participating in any proceedings on the matter, except to disclose that he has such interest and recuse himself as follows:
 - (1) A member of a commission should inform the chairperson of that commission, and then join the public or leave the room, if the recusal occurs at a public meeting; or leave the room if it is not a public meeting.
 - (2) If the chairperson of the commission is conflicted, he should turn over the proceedings to the vice chairperson; inform the vice chairperson and then join the public or leave the room, as the case may be.

- (3) If another person, including another member of the commission, believes that a member of the commission should recuse himself because of a conflict of interest, that person should raise the issue as soon as practicable.
 - (4) If a conflict develops or is discovered by the member after proceedings on the matter have begun, the conflicted member should inform the chairperson and recuse himself as soon as possible after such development or discovery occurs. Notwithstanding the foregoing, this provision shall not preclude an official or employee from participating as a member of the public or offering testimony before any commission, including a commission of which he is a member, regarding the subject matter then before the commission.
 - (5) If the conflict is unrelated to his duties as a member of a commission, and the official or employee was hired or appointed by the Mayor, he should inform the Mayor.
 - (6) If the conflict is unrelated to duties as a member of a commission, and the official or employee was not hired or appointed by the Mayor, he should inform the department head or Superintendent of Schools, as the case may be.
 - (7) The Superintendent of Schools should inform the chairperson of the Board of Education if the Superintendent has a conflict.
 - (8) If a consultant has a conflict, he should inform the chairperson of the commission or the head of the department, or agency that hired him.
 - (9) If a contractor or bidder for a contract has a conflict, he should inform the Finance Director and/or the Purchasing Agent of the City or the Board of Education, as the case may be.
- E. Confidentiality. No official or employee, nor any former official or employee, shall disclose any confidential information or use any such confidential information to further his own or any other person's or entity's personal or financial interest. This obligation remains in perpetuity.
- F. Prohibited gifts. No official or employee, nor any member of his immediate family, shall solicit or accept any gift that would not be offered or given to him if he were not an official or employee; however, this section does not prohibit:
- (1) Performance or merit awards, retirement gifts, plaques or other items given by the City pursuant to a program or practice of the City;
 - (2) Recognition awards having a value of \$500.00 or less from other governmental agencies or charitable organizations.
- G. Prohibited compensation. Other than that which is paid or reimbursed by the City, no official or employee shall solicit or accept any remuneration, gift or other compensation for performing his work or duties as an official or employee. This provision does not prohibit acceptance of gifts or gratuities having a value of less than \$50.00 per donor in

any one calendar year; nor does this provision prohibit acceptance of campaign contributions that are otherwise legal under state and federal law.

H. Prohibited representation.

- (1) Except for representing constituents in the course of his responsibilities as an official or employee, no official or employee, nor any business by which he is employed, shall represent any person or entity, other than himself or a member of his immediate family, before the commission or City department of which he is a member; by which he is employed; or over which he has supervisory authority.
- (2) Full-time employees, lawyers with the City's Office of Corporation Counsel or outside law firms, and members of the City Council, Board of Finance, Board of Assessment Appeals, Board of Ethics, Board of Fire Commissioners, Board of Police Commissioners, Planning and Zoning Commission, and Zoning Board of Appeals shall not represent any person or entity, other than the City, before any City commission or department while he is an official or employee, and for a period of one year following the end of his term as a member of the commission or the termination of his employment.

Note: In addition, attorneys who represent, or have represented, the City or any of its commissions or departments, in any capacity, are governed by the Rules of Professional Conduct as set forth in the Connecticut Rules of Court. See specifically Rule 1.11, Special Conflicts of Interest for Former and Current Government Officers and employees.

I. Prohibited contracts.

- (1) No official or employee shall accept employment with a party to a contract with the City, within one year after the contract was signed, if he participated substantially in the negotiation or award of the contract and the contract obligated the City to pay at least \$50,000.00.
- (2) No official or employee shall award a contract to or participate in an action benefiting a person or entity that employed him within one year prior to his City employment or service.

J. Nepotism.

- (1) Unless waived pursuant to the provisions of § X-7 of this Code, no official or employee shall appoint or hire a member of his immediate family or household for any type of employment with the City, including by contract, unless competitively bid and approved by Corporation Counsel, the Purchasing Manager, and the Finance Director.
- (2) Unless waived pursuant to the provisions of § X-7 of this Code, no official or employee shall directly supervise a member of his immediate family or household.

- (3) The provisions of this § X-4 shall not apply to persons who are officials or employees on the effective date of this chapter; however, such provisions will apply to hires, transfers and promotions that occur after _____, effective date of this chapter.

K. Periodic disclosure of ownership of real estate and business interests. Written disclosure statements shall be filed and maintained in the office of the City Clerk, and be available for inspection by the public during the City Clerk's regular business hours, as follows:

- (1) At the beginning of each term, each elected official, as well as each member of the Inland Wetlands Commission, the Economic Development Commission, the City Council, the Planning and Zoning Commission, the Zoning Board of Appeals, and the Board of Ethics, shall file a written statement of real property in West Haven in which he or his spouse has a legal or equitable interest, a statement of all business entities of which he or his spouse serves as an officer or director, or in which he or his spouse owns an interest of 10% or greater, and a list of all leases or contracts he or his spouse, or any business entity of which he or his spouse serves as an officer or director, or in which he or his spouse owns an interest of 10% or greater, has with the City of West Haven, on a form provided by the Board of Ethics.
- (2) Within 30 days after being hired by the City, all department heads and those authorized to act on their behalf (deputies and assistant department heads), including the Superintendent of Schools, Assistant Superintendent(s) of Schools, and Director of Business and Operations of the Board of Education, shall file a written statement of real property in West Haven in which he or his spouse has a legal or equitable interest, a statement of all business entities of which he or his spouse serves as an officer or director, or in which he or his spouse owns an interest of 10% or greater, and a list of all leases or contracts he or his spouse, or any business entity of which he or his spouse serves as an officer or director, or in which he or his spouse owns an interest of 10% or greater, has with the City of West Haven, on a form provided by the Board of Ethics.
- (3) The officials, employees and spouses of officials and employees identified in Subsections K(1) and (2) on the effective date of this Code shall file said disclosure statements within thirty (30) days of being elected, hired or appointed.
- (4) Such disclosure statement shall be signed by the official or employee who is required to file it and he shall sign and file an amendment thereto within 60 days following any change in the information contained in the most recently filed disclosure or amendment.
- (5) The Personnel Department shall mail timely written notice to each official or employee who is required to file a disclosure statement, with a copy being sent to the Chair, so that the official or employee will be able to comply within the time limits set forth herein. The Personnel Department shall mail written notice by certified mail, return receipt requested, to any official or employee who is required to file a disclosure statement, but who is more than 30 days late in so filing, with a copy being sent to the Chair. Failure to file such disclosure statement within 30 days after receipt of such notice shall be considered a violation of this Code, unless:

- i. The official or employee is contesting his obligation to file such disclosure statement, and has not received a final decision from the applicable court or commission; or
- ii. The official or employee has requested and received a waiver by the Board of Ethics, pursuant to the provisions of § X-7 of this Code.

L. Mandatory distribution and acknowledgement of Code.

- (1) Every official and employee shall be furnished a copy of this Code by the Personnel Department within 10 days after entering upon the duties of his position.
- (2) Within 30 days after receipt of the Code, every official and employee shall sign a statement that he has received and read the requirements of the Code and promises to fulfill them, and must file that statement with the office of the Mayor if an official and with the Finance Department if an employee.
- (3) Failure of the City to comply with the provisions of this section or failure of any official or employee to receive a copy of this Code, or to sign and file such statement with the Personnel Department, shall have no effect on the duty to comply with the Code.

M. Whistle-blower protection. No official or employee shall take or threaten to take, directly or indirectly, official or personal action, including, but not limited to, discharge, discipline, personal attack, harassment, intimidation or change in job, salary or responsibilities, against any person (or against any member of his family) because that person or a person acting on his behalf:

- (1) Reports, verbally or in writing, or files a complaint with the Board; or
- (2) Is requested by the Board to participate in an investigation or hearing, or presents evidence as part of a Board investigation or hearing, or is involved in a court action relating to an alleged violation of this Code. The provisions of this subsection are not applicable when the complainant, witness or reporter of a violation knew that the allegations of such complaint, testimony or report were false or were made with reckless disregard for the truth.

§ X-5. Board of Ethics.

- A. There shall be a Board of Ethics (the "Board"), which shall administer this Code.
- B. The Board shall consist of five members, appointed by the Mayor and ratified by a majority vote by the City Council. The term of office of members of the Board of Ethics is three years, and runs from January 1 through December 31, except that of the initially appointed members, one shall serve for one year; two shall serve for two years; and two shall serve for three years. Notwithstanding the expiration of their terms, members shall serve until their successors have been appointed.
- C. Qualifications and limitations.

- (1) All members of the Board of Ethics shall be electors of the City of West Haven.
- (2) No more than three members may be registered with the same political party.
- (3) No member of the Board may be, or have been within one year of appointment, an official of the City, with the exception of being a member of a political Town Committee.
- (4) No member of the Board may hold an executive office in a political committee.
- (5) No member of the Board shall serve for more than two consecutive three-year terms.

D. Selection process.

- (1) On or before November 1st of each year in which the terms(s) of a member(s) of the Board of Ethics is due to expire, the Mayor shall publish and disseminate a notice requesting that any City resident interested in serving on the Board of Ethics may submit his name, political affiliation, and resume to the Mayor.
- (2) No later than by December 31st of each year, as the terms of members of the Board of Ethics expire, the Mayor shall make the appointments, and the City Council shall ratify such appointments, to the Board of Ethics in conformity with this Code.

E. Quorum; meetings; and officers.

- (1) Three members of the Board shall constitute a quorum.
- (2) At the first meeting of each year, the Board shall elect a Chair who shall preside at meetings of the Board; a Vice Chair who shall preside in the absence of the Chair; and a Secretary.
- (3) Regular meetings shall be scheduled as agreed by a majority vote of the Board, however in no event shall the Board regularly meet less than once per calendar quarter. Subject to the notice requirements of the Freedom of Information Act (Connecticut General Statutes, Chapter 14), special meetings may be called at any time by the Chair, or by a written request signed or e-mailed by at least three members of the Board. A meeting shall also be called for as soon as possible after the receipt of a complaint. All meetings relating to a complaint, before a finding of probable cause has been made, shall be held separately from other meetings, as meetings on a complaint, not as executive sessions during an ordinary meeting pursuant to Connecticut General Statutes §§ 7-148h and 1-82a. However, ordinary meetings may be held on the same day at a different time. Before a finding of probable cause has been made by the Board, all discussions related to a complaint or discussions related to its own investigations of unethical conduct by an official or employee or a former official or employee shall be confidential except upon the request of the respondent.

- (4) The Board shall have the power, by a unanimous vote of the other members, to dismiss any member who has been absent from three Board meetings during a year without good cause. Good cause shall include vacations, ill health, and unexpected family-related commitments. The Chair shall promptly inform the Mayor that a member of the Board has been removed pursuant to this subsection, and request that the vacancy be filled as soon as practical. Any member appointed to fill a midterm vacancy under this section shall hold his position on the Board for the remainder of the term of the member who he replaced.

F. The Board of Ethics shall:

- (1) Compile and maintain a record of the doings of the Board. The Board's record shall include, but is not limited to, all reports, advisory opinions, orders, statements, memoranda, decisions and written correspondence. The originals of each such document shall be filed with the City Clerk who shall retain same on file in chronological and numerical order together with an index thereof. For purposes of this section, an electronically created document shall constitute an original.
- (2) Receive and investigate accepted complaints as described in this Code.
- (3) Upon a majority vote, investigate the actions and conduct of elected or appointed officials, or employees, when potentially unethical conduct by an official or employee, or a former official or employee, comes to the attention of the Board.
- (4) Make a determination of probable cause on each complaint of unethical conduct, as well as each of its own investigations of unethical conduct that comes to the attention of the Board.
- (5) Maintain the confidentiality of all complaints and investigations of unethical conduct until such time as the Board has made a determination that a particular official or employee or a former official or employee has probably engaged in unethical conduct, as defined in this Code.
- (6) Destroy all records of all complaints and investigations of unethical conduct that do not result in a finding of probable cause.
- (7) Conduct a public hearing on each complaint or investigation that resulted in a determination of probable cause.
- (8) Issue advisory opinions regarding the interpretation and applicability of the Code upon the written request of any person without unreasonable delay.
- (9) Act on applications for waivers pursuant to the provisions of Section § X-7 of this Code without unreasonable delay.
- (10) Request the office of the mayor to distribute copies of this Code to officials and employees, and make copies available to the public.

G. The Board of Ethics may:

- (1) After public hearing, adopt rules and regulations for the administration and implementation of this Code, not inconsistent with the Code.
- (2) Develop and distribute such forms as may be necessary or convenient to administer this Code.
- (3) Within available appropriations, the Board as a whole, or its individual members, may attend seminars and training programs to enhance the knowledge, skills and effectiveness of the Board.
- (4) Employ necessary staff or outside counsel, within available appropriations.

H. Complaints.

- (1) Making a complaint. Any person may file a complaint alleging that an official or employee, or a former official or employee, has engaged in unethical conduct as follows:

- i. Form of complaint. It must be:

1. In writing (hard copy or electronic).
2. Signed (original wet or digital signature required).
3. Acknowledged under penalties of false statement (Conn. Gen. Stat. § 53a-157b).
4. Include the name, address, and telephone number(s) of the complainant.

- ii. Substance of complaint. It must:

1. Identify the name of the person or persons, and their position or title, who are alleged to have committed a violation of this Code.
2. Specify the act or acts that are claimed to constitute the alleged violation and identify the section(s) of the Code of Ethics, to the extent possible, that the act or acts allegedly violated.
3. Specify the facts that should be considered by the Board.
4. Concern acts that have occurred within three (3) years of the date of the complaint.
5. Reference and include copies of exhibits (if any).

- iii. Time limit and manner in which to submit a complaint.

1. No complaint may be made under this Code except within three (3) years after the violation is alleged to have occurred.

2. Complaints, including any exhibits, may be submitted electronically or addressed to the Board and marked "ETHICS COMPLAINT – CONFIDENTIAL." The sealed envelope shall be delivered to the City Clerk, either by hand or by certified mail, return receipt requested. The complaint shall be deemed to have been filed on the date of its receipt by the City Clerk, and the City Clerk shall treat the complaint as a confidential document. The City Clerk shall issue a dated, signed receipt to the complainant, upon request.
 3. The City Clerk shall not open the sealed envelope, but shall notify the Chair within 24 hours after receipt, and arrange for its prompt delivery to the Chair.
- iv. Receipt of complaint. After receipt of a complaint, the Chair shall confirm that the complaint:
1. Is in writing;
 2. Contains an original signature;
 3. Is acknowledged under penalties of false statement (Conn. Gen. Stat. § 53a-157b).
 4. Concern acts that have occurred within three (3) years of the date of the complaint.
 5. Contains the name, address, and telephone number(s) of the complainant.
- v. Deficient complaints. If the complaint is deficient with respect to any one or more of the requirements set forth above, the Chair shall promptly:
1. Return the complaint to the complainant together with a copy of this Code;
 2. Inform the complainant that the complaint does not comply with the requirements of the Code in one or more respects; and
 3. Notify the complainant that he may resubmit the complaint in conformity with the requirements of the Code.

(2) Board of Ethics procedure upon receipt of accepted complaints; Investigations.

- i. If the complaint is in writing, signed, made under penalty of false statement, concerns acts that have occurred within three (3) years of the date of the complaint, and contains the name, address and telephone number of the complainant, it shall be deemed accepted by the Chair.
- ii. Upon acceptance of a complaint, the Board shall investigate any alleged violation of this Code. In the conduct of an investigation of an alleged

violation of this Code, the Board shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses and require the production for examination by the Board of any books and papers that the Board deems relevant in any matter under investigation or in question. In the exercise of such powers, the Board may use the services of the West Haven Police Department, the office of Corporation Counsel or outside legal counsel (to the extent sufficient appropriations are made), which shall provide such services upon the Board's request.

iii. Initial review of complaint.

1. Within 72 hours of his receipt of the complaint, the Chair shall forward a copy to the Board, either in hard copy or electronically, together with any exhibits thereto, to determine if the complaint alleges an action or inaction that, if true, would constitute a violation of this Code, and that at least one person accused of a violation is a person covered by this Code.
2. Within thirty (30) days of the Chair transmitting a copy of the complaint and any exhibits to the Board, the Board shall meet at a special meeting called by the Chair pursuant to Conn. Gen. Stat. §§ 7-148h and 1-82a, and review the complaint to determine whether or not the allegations contained therein, if proved, would constitute a violation of the Code.
3. If the Board determines that the complaint does not contain sufficient facts to constitute a violation of this Code, the Board shall dismiss the complaint and duly notify the complainant in writing within ten (10) business days of such determination. All information of said complaint shall remain confidential, and all records shall be immediately destroyed.
4. If the Board determines that the complaint alleges sufficient facts to constitute a violation of this Code, the Board shall retain the complaint for further investigation and shall duly notify the complainant in writing within ten (10) business days of such determination. Within ten (10) business days of the Board's determination, the Board shall also:
 - a. Forward to the respondent(s) a copy of the complaint, including any exhibits;
 - b. Forward the respondent(s) a copy of this Code;
 - c. Notice the date and time of a special meeting, which such meeting may continue thereafter until the investigation is complete, which the notice shall include notice that the special meeting will be held pursuant to Conn. Gen. Stat. §§

7-148h and 1-82a, to investigate, discuss and make a determination as to whether there is probable cause to make a finding that the respondent(s) had engaged in unethical conduct; and that unless and until a finding of probable cause is made, said investigation, discussion and determination will remain confidential except upon the request of the respondent; and

- d. Notify the respondent(s) of the special meeting scheduled pursuant to *subsection c* above and notify the respondent(s) that they may respond to the complaint, in writing, no later than 72 hours prior to the special meeting.

5. Investigation to determine probable cause.

- a. The Board shall investigate all complaints submitted in conformity with this Code as well as all unethical conduct by an official or employee or a former official or employee that comes to its attention. The affirmative vote of three members of the Board is required to make a finding of probable cause. Subject to the provisions of Conn. Gen. Stat. § 1-200(6)(A), unless and until the Board makes a finding of probable cause, the doings of the Board with respect to its investigations of a complaint shall remain confidential; however, nothing herein shall preclude the Board or its individual members from reporting the commission of a crime to the police or to an appropriate prosecutorial authority.
- b. The purpose of the investigation is to determine whether there is probable cause to believe that the respondent(s) had violated this Code. As used herein, "probable cause" means that it is more likely than not that a violation has occurred.
- c. If the Board does not make a finding that there is probable cause to believe that a violation of this Code has occurred, it shall dismiss the complaint, notify the complainant and the respondent(s) in writing within ten (10) business days of such determination, and destroy all records of the complaint or its own investigation of unethical conduct, as the case may be, in accordance with the Connecticut General Statutes.
- d. If the Board finds that there is probable cause, the Board shall forward copies of the finding, in writing, to the complainant and the respondent(s) within ten (10) business days from such determination. Upon finding that there is probable cause, the complaint, the finding, and the information gathered during the investigation, if any, shall be made available to the public, and all filings and

proceedings that follow shall be public except as required by law; provided, however, that deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act.

6. Public hearing following a finding of probable cause; Decisions; Penalties.
 - a. If the Board finds that there is probable cause to believe that a violation of this Code has occurred, it shall notify the complainant and the respondent(s) within ten (10) business days, and set a date for commencement of a public hearing, which may continue thereafter until complete, to determine whether a violation has occurred. Such public hearing shall be commenced within thirty (30) days of such finding of probable cause, or at a later date upon a finding of good cause by the Chair.
 - b. In the conduct of the public hearing, the Board, acting through the Chair, shall have the power to administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, including the issuance of subpoenas duces tecum to require production of any books, records and papers that the Board deems relevant in any matter under investigation or in question. The Board may examine any witness who appears before it, including the complainant and the respondent(s). The Chair may limit the number of witnesses and scope of testimony to matters he believes to be relevant, material, not unduly repetitious, and necessary to make a fair and reasoned decision.
 - c. The hearing shall be governed not by the strict rules of judicial evidence, but by an administrative standard, with a liberal introduction of testimony and documentary evidence.
 - d. All witnesses shall be sworn.
 - e. The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine the complainant and witnesses.
 - f. The affirmative vote of a majority of the members of Board in attendance shall be required to make a finding that there has been a violation of this Code. No person shall be held to have violated this Code except upon clear and convincing proof.
 - g. If the Board does not make a finding that there has been a violation of this Code, it shall dismiss the complaint.

- h. Dismissal of the complaint shall be final, either after hearing, or because the Board did not make a finding of probable cause.
- i. If the Board makes a finding that there has been a violation of this Code, the Board shall issue a decision as soon as practicable and shall mail copies to the complainant and respondent(s) within ten (10) business days thereafter. No member of the Board may vote on a determination unless he has attended the entire hearing and participated in all deliberations. Deliberations may be held in executive session. In its written decision, the Board may, but is not required, to make recommendations for sanctions and/or penalties which may include, but need not be limited to:
 - i. Public censure and reprimand;
 - ii. In the case of a public employee, a recommendation to the appropriate authority for such personnel action as appears appropriate;
 - iii. Required recusal;
 - iv. Disclosure of conflicts or any other periodic disclosures required by the Code;
 - v. Return of gifts;
 - vi. Restitution of any pecuniary benefits received because of the violation committed;
 - vii. A civil penalty not exceeding \$1,000.00 per violation payable to the City of West Haven, which shall be enforced upon a petition to the Superior Court for the Judicial District of New Haven in accordance with Conn. Gen. Stat. § 7-148j(4); and
 - viii. Such other appropriate recommendation based upon the violation committed.
- j. Any contract, transaction or official act or action which was entered into, taken or otherwise approved in violation of this Code shall be voidable by resolution of the City Council.
- k. Any respondent aggrieved by a decision of the Board regarding a finding of a violation may, within twenty (20) days, take an appeal to the Superior Court for the Judicial District of New Haven.

I. Confidentiality of complaints; procedures in investigations, hearings and determinations.

(1) Unless otherwise stated within the Code:

- i. In accordance with Conn. Gen. Stat. §§ 1-82a(a) through (b) and 7-148h(a), until and unless there is a finding of probable cause, the allegations in a complaint and any information supplied to or received from the Board shall not be disclosed during the investigation to any third party by a complainant, respondent, witness or Board member except at the request of a respondent.
- ii. No person shall take or threaten to take official action against an individual for such individual's disclosure of information to the Board under the provisions of this Code. Such retaliatory actions will be considered a violation of the Code. After receipt of information from an individual, the Board shall not disclose the identity of such individual without his consent unless the Board determines that such disclosure is unavoidable during the course of the investigation.
- iii. Upon the request of either the complainant or the respondent(s), fourteen (14) days prior to the start of the hearing, and at the expense of the party requesting it, the Board shall cause the hearings to be recorded and also a transcript to be made.
- iv. If the Board makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, and all documents shall be immediately destroyed. No complainant, respondent, witness, designated party or Board member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of the complaint, which the disclosing party would not otherwise have known.
- v. If the Board makes a finding of probable cause, the entire record of the investigation and hearing shall become public.
- vi. Nothing contained herein shall in any way be construed to prohibit or otherwise limit the Board's ability to interview witnesses, receive or review documents during any part of the Board's investigation of a complaint. In the event the Board deems it necessary to interview witnesses and/or receive and review documents, such requests shall be tailored as narrowly as possible so as to protect the respondent(s) confidentiality without hindering the Board's investigation.
- vii. A violation of this subsection shall be deemed a violation of this Code.

J. Complaints against members of the Board of Ethics.

- (1) Nothing in this Code shall be construed to permit the Board to conduct an investigation of itself or of any of its members or staff. The Corporation Counsel and members of his staff are not to be considered staff of the Board.

- (2) If the Chair receives and accepts a complaint alleging that the Board or any of its members or staff has violated any provision of this Code, the Chair shall promptly transmit a copy of the complaint to the Mayor, who shall forthwith designate the City Council as a Special Ad Hoc Board of Ethics, and the Chair of the City Council, or his designee; shall serve as Chair of the Special Ad Hoc Board of Ethics. The Special Ad Hoc Board of Ethics shall process the complaint as set forth herein, except that a vote of nine (9) members shall be required to make any finding or decision required or permitted herein.
- (3) If the Chair receives a complaint alleging he violated any provision of this Code, the complaint shall be handled by the Vice Chair in accordance with this Code.

K. Settlement agreements.

- (1) At any time after a complaint has been filed, the Board may seek and enter into a settlement agreement with the respondent(s). The settlement agreement will, to the extent relevant, include the nature of the complaint, findings of fact, conclusions of law, the Board's reasons for entering into the agreement and a waiver of the right to a hearing; and may include an admission of violation by the respondent(s), a promise by respondent(s) not to do certain actions, the imposition of a public reprimand, the imposition of a penalty, remedial action to be taken, or oral or written statements to be made.
- (2) In determining whether a matter is appropriate for settlement, the Board should consider the following factors, as well as other factors it considers relevant:
 - i. The severity of the alleged conduct;
 - ii. The respondent's apparent level of knowledge and willfulness regarding the alleged conduct;
 - iii. Whether the alleged conduct appears to be an isolated event or part of a pattern of conduct;
 - iv. Whether the alleged conduct appears to indicate a violation of criminal law;
 - v. The complexity of issues or evidence, and the likely scope of an investigation and hearings;
 - vi. The involvement of other agencies in the investigation of the respondent's conduct;
 - vii. The existence of Board precedent concerning the alleged conduct;
 - viii. The age of the facts alleged in the complaint;
 - ix. The resources and priorities of the Board; and
 - x. Whether the respondent self-reported the alleged conduct or sought an advisory opinion regarding it.

- (3) Any settlement agreement approved, by at least three members of the Board, will be a public record. However, all meetings held and documents relating to the settlement negotiations will be kept confidential, unless the parties agree otherwise.
- (4) If a settlement agreement is breached by the respondent, the Board may rescind the agreement and reinstitute the proceeding. However, no information obtained from the respondent in reaching the settlement, which is not otherwise discoverable, may be used in the proceeding.

L. Penalty for false complaints.

- (1) The complainant is hereby advised and provided notice that if he intentionally makes a false statement, he may be subject to fines of up to \$1,000 and penalties of up to one year of imprisonment under the provisions of Conn. Gen. Stat. § 53a-157b, a Class A misdemeanor. Such fines shall be enforced upon a petition to the Superior Court for the Judicial District of New Haven in accordance with Conn. Gen. Stat. § 7-148j(4);

M. Expenses and compensation; special counsel.

- (1) The members of the Board shall serve without compensation for their services. In the performance of its duties and in the exercise of its powers, the Board shall not incur any expenses in excess of the funds appropriated by the legislative body for such purpose. The Board may request special appropriations from the legislative body as it deems appropriate.
- (2) The Board shall have access to the Corporation Counsel and to special legal counsel of the Board's choosing if the Corporation counsel is disqualified from assisting the Board or recuses, or if the Board deems it inadvisable to proceed with advice from Corporation Counsel under the circumstances. If special counsel is retained, the City's Finance Director or his designee shall negotiate the terms of engagement of special counsel.

N. Advisory opinions. The Board shall issue an advisory opinion with respect to the requirements and/or applicability of this Code upon the written request of any person. Until amended or revoked, an advisory opinion of the Board shall be deemed to be a final decision of the Board. Any person who acts in good faith reliance on an advisory opinion of the Board shall be entitled to use such reliance as an absolute defense to any complaint brought under the provisions of this Code in connection with the specific activities that were the subject of the advisory opinion. If the Board believes it needs additional information and/or documentation in order to issue its advisory opinion, it shall request such additional information and/or documentation as soon as possible.

§ X-6. Exceptions.

- A. No public official or employee shall be found to have violated any provision of this Code by reason of:

- a. Voluntary, uncompensated service to, membership in or affiliation with a social, fraternal, charitable, service, religious, philanthropic, cultural or similar nonprofit institution or organization.
- b. A commercially reasonable loan made in the ordinary course of business by an institution or organization authorized by law to engage in the making of such loans.

§ X-7. Waiver.

- A. Upon written application and upon a showing of compelling need by the applicant, at an open session after public notice, the Board may grant the applicant a waiver of any of the provisions of this Code.
- B. Waivers must be in writing and must state the grounds upon which they are granted. The records of the Board shall set forth the name of the person or entity requesting the waiver and a general description of the nature of the waiver.
- C. When acting on a request for a waiver of § X-4J, Nepotism, rather than a showing of compelling need, the applicant must show that the benefits to the City outweigh the likelihood of abuse; and the Board may impose such reasonable conditions as it considers appropriate to ensure that the spirit and intent of this Code are not frustrated.

§ X-8. Legal Representation.

- A. The Office of Corporation Counsel shall provide representation to the Board upon request and shall not represent any public official or employee in Board proceedings.
- B. Any public official or employee who is the respondent in any complaint filed with the Board and who wishes to be represented by an attorney with regard to said complaint, and to have the City pay the fees of such attorney pursuant to subsection (c) below, shall submit the proposed scope of work and hourly or other fee agreement of such attorney to the Corporation Counsel who shall approve or disapprove the same within seven (7) days.
- C. Provided that the Corporation Counsel shall have given prior written approval to such scope of work and hourly or other fee agreement, the City shall pay the reasonable fees of such attorney with respect to any matter alleged in such complaint upon which the Board does not find the respondent to have violated this code.

§ X-9. Amendment.

- A. This Code of Ethics may be amended only by ordinance passed by a majority of the City Council.