



# TOWN OF MIDDLEBURY

## Ethics Commission

### Code of Ethics

#### 1. Establishment: 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 the 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; to assist public officers, officials and employees in establishing guidelines for their conduct; and to develop and maintain a tradition of responsible and effective public service. In recognition of these goals, and under the authority of Connecticut General Statutes (CGS) §7-148(b)(10)(B), there is hereby established for the Town the following Code of Ethics.

#### 2. Definitions

As used in this chapter, 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, committees and the Board of Selectmen of the Town.

##### CODE

The Code of Ethics, as adopted by the Town of Middlebury, and promulgated by the Ethics Commission per Section 506-O of the Town Charter.

##### COMPLAINANT

The person, or persons, who brings forward the alleged violation of the Code.

##### CONFIDENTIAL INFORMATION

Means information, whether transmitted orally, by E-mail or in writing, which is obtained by reason of the public position or office held, and is of such nature that it is not, at the time of transmission, a matter of public record or of public knowledge.

##### CONFLICT OF INTEREST

A conflict between one's obligation to the public good and one's self-interest.

**FINANCIAL INTEREST**

Shall be deemed to exist if any officer, member or employee might, directly or indirectly, derive financial gain or suffer loss from any purchase, contract, transaction or decision involving any such Town office, board, commission, authority or committee and shall also be deemed to exist if a business or professional enterprise in which the officer, employee, member or commissioner has any financial interest as owner, member, partner, officer, employee or stockholder or has any other form of participation which will be affected by the outcome of the matter under consideration.

**MATERIAL CONFLICT OF INTEREST**

A conflict of interest shall be deemed to be material where a reasonable person would conclude the financial or private interest is incompatible with the proper discharge of official duties or would tend to impair independence of judgment and action, in the performance of official duties.

**OFFICER, OFFICIAL OR EMPLOYEE OF THE TOWN**

Members of the Board of Selectmen, boards, commissions, committees, departments or other agencies, whether the officers, officials and members are elected or appointed, whether paid or unpaid, but shall not mean Justices of the Peace.

**PERSONAL INTEREST**

As distinguished from financial interest or private financial interest, a personal interest shall be deemed to exist if any officer, member or employee shall have an interest by reason of relationship within the fourth degree by blood or marriage, or close business relationship or prejudicial relationship with a person involved in any such contract, transaction or decision.

**PROBABLE CAUSE**

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

**RESPONDENT**

The person or persons against whom the complaint is brought.

**3. Standard of Service**

All officers, officials and employees of the Town should be loyal to the objectives and purposes of the Town as expressed by the electorate, the Charter and the ordinances and the programs developed to attain those objectives. All should adhere to the rules and regulations of performance and work established as the standards for their positions by the appropriate authority. They should not exceed their authority nor seek to have others do so, and they shall work in full cooperation with other public officers, officials and employees unless prevented from so doing by law, by good conscience or by the officially recognized confidential nature of their work.

**4. Use of Public Property by Town Personnel Restricted**

No officer, official or employee shall request or permit himself or herself or others the use of Town-owned or -leased vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies for the use of such officers, officials or employees in the conduct of Town business.

**5. Special Consideration Prohibited**

No officer, official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

**6. Conflict of Interest Prohibited**

*Editor's Note: See C.G.S. § 7-479.* No officer, official or employee of the Town shall engage in any business or transaction or shall have a private financial interest or personal interest, direct or indirect, which is incompatible or in conflict with the proper discharge of his or her official duties in the public interest or would tend to impair the independence of judgment or action in the performance of the official duties of the officer, official or employee of the Town.

Any elected officer, town employee, commissioner, authority or committee member who shall have a conflict of interest as defined herein shall disclose such interest causing such conflict in writing to the Ethics Commission.

**7. Financial Interest Restricted**

No member of the Board of Selectmen or any other officer or employee of the Town shall be financially interested, directly or indirectly, either as principal, surety, officer, partner or otherwise, except as a minority stockholder or except as a director in a corporation, in any contract with sales to or purchases from the Town. The provisions of this section shall not apply to any contract awarded to the lowest responsible bidder after public advertisement.

**8. Disclosure of Confidential Information**

Except as may be required by law, no officer, official or employee of the Town shall disclose any confidential information concerning the property, government business or affairs of the Town, and neither shall such officer, official or employee use such information to advance the private financial interest of himself or herself or others.

**9. Acceptance of Gifts, Gratuities and Favors Restricted**

No officer, official or employee shall accept or solicit any valuable gift, whether in the form of service, loan, thing, promise or any other form, from any person who, to his or her knowledge, is interested, directly or indirectly, in any manner whatsoever, in business dealings with the Town, or which gift may tend to influence such officer, official or employee in the discharge of his or her official duties, in granting any improper favor, service or thing of value.

**10. Appearance on Behalf of Private Interest**

No officer, official or employee shall appear in behalf of private interests before any agency of the Town, nor shall such officer, official or employee represent private interests in any action or proceeding against the Town when said appearance or representation would be in conflict with or would tend to impair his or her independence of judgment and action in the performance of official duties as such officer, official or employee. An officer, official or employee may appear before a Town agency in the performance of official, public or civic obligations.

**11. Disclosure of Interests Required**

A. Any officer, official or employee who has a private financial interest in any action, legislative or otherwise, by any Town agency and who is a member of, participates in discussion with or gives an official opinion to such Town agency shall disclose on the written records of such agency the true nature and extent of such interest. This section shall not apply to:

1. Contracts awarded to the lowest responsible bidder after public advertisement.
2. Unpaid appointed officials during a declared state of emergency
3. Matters requiring disclosure to or approval by a court.
4. Interests by virtue of ownership of stock in a publicly held corporation in an amount less than 10% of all issued and outstanding stock.
5. The Town Attorney, Town Engineer or similar Official, who is participating in or offering an opinion on behalf of said agency, and whose financial interest is merely in being paid for such services.

B. Every elected official, excluding Justices of the Peace and Selectmen, shall, on or before January 1 each year, file with the Town Clerk, on a form to be prepared by the Town Attorney, a statement, under oath, containing the following information:

1. All real estate located within the Town of Middlebury owned by such elected official or held under a lease for a term exceeding five years, excluding, however, his or her principal residence. The foregoing shall also apply to real estate owned or leased, as aforesaid, by a corporation, trust or partnership in which any such elected official is the legal or equitable holder of at least 5% of the legal or equitable interests in said corporation, trust or partnership.
2. The names of any firm, proprietorship, partnership or corporation of which said elected official is an employee or in which such elected official holds at least a five-percent interest and which firm, proprietorship, partnership or corporation has sold or supplied goods or services in excess of \$10,000 per annum to the Town of Middlebury during the two years immediately preceding such official's election to office.

3. Any income, fees, salary or wages directly or indirectly received by such elected official from the Town of Middlebury or its political subdivisions during the two years immediately preceding such official's election to public office.
- C. Every member of the Zoning Board of Appeals and the Town Plan and Zoning Commission shall file a statement containing the information required in Subsection B(1) above on or before January 1 each year.

## **12. Ethics Commission**

- A. As included in the Charter of the Town of Middlebury, there is hereby established an Ethics Commission consisting of five (5) members, to be appointed by the Board of Selectmen for a term of five (5) years on a rotating basis as terms expire. The initial members shall be appointed to staggered terms, one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. Inaugural members shall be eligible to serve one (1) additional five (5) year term beyond his/her initial appointment. The Commission shall promulgate and update as necessary, a Code of Ethics for the Government of the Town of Middlebury. As herein provided.
- B. In the event of a disclosure or a claim of a conflict of interest with respect to a Town officer, employee, member of a Town board, commission, authority or committee, the Commission shall inquire into the facts of the matter and determine whether or not a conflict of interest exists. And, if so, whether it is material to the matter under consideration.
- C. If a vacancy occurs before the end of a term, a member shall be appointed by the Board of Selectmen for the unexpired portion of the term.
- D. The Commission shall elect a Chairperson and a Vice Chairperson, as well as its own Recording Secretary, annually.
- E. When an officer, official or employee has doubt as to the applicability of a provision of this chapter to any specific situation, he or she may apply to the Ethics Commission for an advisory opinion and shall be guided thereby. (See Section 13 f, below)

## **13. Powers and Duties of Commission**

- A. The Ethics Commission as established by Town Charter shall have the power and duty to enforce §§ 3 through 11 of this Code;
- B. to hear and decide specific cases in which a violation of this Code is alleged in a complaint. Pursuant to CGS §7-148h, the processing of complaints shall comply with CGS §1-82a;
- C. to provide a fair and respectful Hearing, protecting the rights and interests of all parties to a complaint;

- D. to adopt rules and regulations for the administration of this Code, which shall be available to any elector of the Town upon request of the Commission;
- E. To administer oaths.
- F. The Commission may render advisory opinions as to the applicability of this Code of Ethics, at its sole discretion, to any agency of the Town and to officers, officials and employees pursuant to a written request or upon its own initiative. All requests for such advisory opinions and opinions rendered therein shall be confidential and shall not be open to public inspection or disclosure. The Commission, in its discretion, may make public, opinions, which do not invade an individual's privacy to the extent of the law, and which it believes will be in the public interest. But no such opinion shall be made public until redactions as may be necessary have been made to prevent disclosure of the identity of the officer, official or employee involved.

**14. Statute of Limitations**

There shall be a Statute of Limitations of two (2) years for filing complaints after violations of this Code are alleged to have occurred. A complaint regarding an alleged violation of this code must be filed with the Town Clerk within six (6) months of discovery, that is, from the date the person filing the complaint knew or should have known of the alleged violation.

**15. Applicability**

In the application of this Code of Ethics, care will be given to distinguish between concerns of management of Town employees and violations of the public trust. The daily management of employee performance is the responsibility of Town managers. Personnel policies should be the first guide in those areas where applicable. Similarly, the routine activities of the Commission should be governed by its rules and regulations.

**16. Confidentiality**

In accordance with CGS §1-82a, all persons subject to this Code are required to keep complaints, allegations, information supplied to or received from the Commission, information learned from any review or evaluation discussions, decisions and records strictly confidential, until such time as the Commission makes a finding of probable cause, except upon the request of the Respondent.

**17. Violations and Penalties**

Any disciplinary action that the Ethics Commission recommends to the Board of Selectmen shall be appropriate to the findings of fact, the position of the offender and the gravity of the offense. The Ethics Commission may recommend any action, which it is lawfully permitted to, including, but not limited to, any one or a combination of the following:

- A. Public Admonition or Reprimand.
- B. Suspension or demotion.
- C. Forfeiture of or removal from appointed office.
- D. Termination of Employment.
- E. Cease and Desist orders, which must be enforced by a court of competent jurisdiction.
- F. A fine up to the maximum amount permitted by law.
- G. Restitution of any pecuniary benefits received because of the violation committed.

The Board of Selectmen may prescribe penalties for violation of this Ordinance, as authorized in CGS §7-479, including the avoidance of any municipal purchase, contract or ruling adopted in contravention thereof. In the case of an Ethics violation by a member of the Board of Selectmen, the Commission will prescribe the appropriate penalty(s) as permissible under the Law, and its decision will be binding upon said Selectman, after Appeal.

#### **18. Appeals**

Once the Commission has determined that the Respondent has violated a provision(s) of this Code and has filed its Memorandum of Decision and Recommended Action with the Board of Selectmen, the Respondent has the right to appeal the Commission's decision and recommendation. The Respondent may present to the Board of Selectmen as appropriate, any facts, documents or other evidence that he/she deems relevant, in order to establish that the Commission's decision and recommendation should be amended. The Board of Selectmen decision will be final and binding upon both the respondent and the Ethics Commission.

#### **19. Interpretation**

The provisions of this ordinance are to be construed liberally, to the end that the public interest be fully protected. This ordinance shall be construed in a manner consistent with all applicable federal and state laws and applicable to the provisions of the Charter. In the event a conflict exists between this ordinance and a federal or state law or the Charter, the federal or state law or the Charter shall control.

#### **20. Sections of AD 2000 Charter excluded**

Upon adoption of this Code of Ethics by the Town of Middlebury, Section 801 of the AD 2000 Charter shall be null and void as of the effective date of the adoption of this Code.