

#91

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9:40 a.m.
6/25/07 ds

**AN ORDINANCE RE-DEFINING AND CLARIFYING
THE POWERS AND DUTIES OF THE BOARD OF ETHICS** TOWN CLERK
WOLCOTT, CONN.

PREAMBLE

The purpose of this ordinance is to guide and educate the public and its Public Officials and Public Employees by establishing standards and norms of behavior for all officials in public service. The ordinance sets forth guidelines to assist public officials and employees and members of town agencies in determining when a conflict of interest arises. It defines situations and practices, which would constitute the use of public office or employment for personal gain or benefit and provides for disciplinary action against any official or employee who so uses his office or employment.

Since many of the Public Officials and Public Employees in local government serve on a part-time basis and may thereby encounter conflicts of interest, it is all the more important, and it is in the best interest of the citizens of the Town of Wolcott, that such guidelines be established. To accomplish these goals and purposes, a Board of Ethics was established in the Town of Wolcott in 1981, which Board has administered, the Code of Conduct set forth herein. This ordinance re-defines and clarifies the powers and duties of the Board of Ethics in light of recent amendments to Chapter 10 and Chapter 98 of the Connecticut General Statutes.

ARTICLE I - DEFINITIONS

- A. "Board" means the municipal ethics commission/municipal ethics board established in Article II.
- B. "Business" means any entity through which business for profit or not for profit is conducted including, but not limited to, a corporation, partnership, limited partnership, limited liability partnership, limited liability company, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.
- C. "Business with which he or she is associated", as that phrase is hereinafter used in Article III, Section 2.(G), shall mean any sole proprietorship, partnership, firm, corporation, trust or other entity through which business for profit or not for profit is conducted in which the elected officer, official, or member of his immediate family is a director, officer owner, limited or general partner,

beneficiary of a trust or holder of stock which constitutes five per-cent or more of the total outstanding stock of any class, provided an elected officer, official, or member of his immediate family shall not be deemed to be associated with a not for profit entity solely by virtue of the fact that the elected officer, official or member of his immediate family is an unpaid director or officer of the not for profit entity. "Officer" refers only to the president, executive or senior vice-president, or treasurer of such business.

- D. "Confidential information" means information, whether transmitted orally, electronically, 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, or matter of public record or public knowledge.
- E. "Days" shall be considered Business Days, unless otherwise specified as Calendar Days
- F. "Financial interest" means any interest with a monetary value of \$100 or more or which generates a financial gain or loss of \$100 or more in a calendar year.
- G. "Gift" means anything of value, including entertainment, food, beverage, travel, and lodging given or paid to a public official or public employee to the extent that consideration of equal or greater value is not received. A gift does not include:
- (1) a political contribution otherwise reported as required by law or a donation or payment as described in sub-division (9) or (11) of subsection (b) of 9-333b;
 - (2) services provided by persons volunteering their time;
 - (3) a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;
 - (4) a gift received from (a) an individual's spouse, fiance or fiancée, (b) the parent, brother or sister of such spouse or such individual, or (c) the child of such individual or the spouse of such child;
 - (5) goods or services which are provided to the Municipality and facilitate governmental action or functions;

- (6) a certificate, plaque or other ceremonial award costing less than one hundred dollars;
- (7) a rebate or discount on the price of anything of value made in the ordinary course of business without regard to that person's status;
- (8) printed, electronically provided, or recorded informational material germane to governmental action or functions;
- (9) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
- (10) an honorary degree bestowed upon a public official or public employee by a public or private university or college;
- (11) a meal provided at an event and/or the registration or entrance fee to attend such an event, in which the public employee or public official participates in his official capacity;
- (12) a meal or beverages provided by an individual with a value of less than one hundred dollars;
- (13) gifts in-kind of nominal value not to exceed one hundred dollars tendered on gift giving occasions generally recognized by the public including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations or bar/bat mitzvahs.

- H. "Immediate family" means any spouse, child or dependent relative who resides in the individual's household.
- I. "Individual" means a natural person.
- J. "Individual with whom one is associated" means an individual with whom the person or a member of his immediate family mutually has an interest in any business.

- K. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct government action.
- L. "Person" means an individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.
- M. "Personal interest" means an interest in any action taken by the municipality in which a person will derive a nonfinancial benefit or detriment but which will result in the expenditure of municipal funds.
- N. "Public employee" means a person other than a public official employed, whether part-time or full-time, by the Municipality or a political subdivision thereof.
- O. "Public official" means an elected or appointed official, whether paid or unpaid or full or part-time, of a municipality or political subdivision thereof, including candidates for the office; and shall also include a district officer elected pursuant to Connecticut General Statutes Section 7-327.
- P. "Special district" means a district established pursuant to Connecticut General Statutes Section 7-324.
- Q. "Town agency" means any department, commission, board, bureau, committee, legislative body, agency, or other establishment of the executive or legislative branch of the town, including the Board of Education to the extent that the provisions of this ordinance may lawfully apply to the Board of Education.
- R. "Proper authority" means Wolcott Police, State Police, or State's Attorney's Office for the Judicial District of Waterbury.

ARTICLE II - BOARD OF ETHICS

Section 1. - APPOINTMENT, TERMS, VACANCIES, DUTIES

There shall be a Board of Ethics appointed by the Town Council consisting of five (5) members who shall each be appointed in accordance with the Wolcott Town Charter.

Said board shall have all the powers conferred and all the duties imposed upon it by this ordinance and by Section 3 of 1979 Public Act 618, and all amendments thereto, as provided in Section 423 of the Charter of the Town of Wolcott. Each member serving on said board on the effective date of this ordinance shall complete his or her term. If a vacancy exists during the term, the Town Council shall appoint a replacement from the same party for the duration of the term. No member shall serve more than three consecutive terms. Appointees shall continue to serve until their successors are appointed and qualified. See attached Addendum A (Schedule of Terms).

Section 2. – OFFICERS, TERMS, MEETINGS, REGULATIONS

No later than the third Wednesday of July every year, the Town Council chairperson will preside over the initial meeting of the Board to elect a chairperson. The Town Council chairperson has no vote in this election. The newly elected chairperson will then proceed to preside over the meeting to elect a vice-chairperson, both chairperson and vice-chairperson to serve for a term of one year. In the absence of the chairperson or in the event of a vacancy in that position, the vice-chairperson shall serve as chairperson. Any action, except as otherwise provided herein, by the Board shall require the affirmative vote of three (3) of its members and three (3) members shall constitute a quorum. The chairperson or any two (2) members of the Board may call a meeting provided that at least 24 hours advance notice of the meeting be given.

The Board will review the Code of Conduct periodically and recommend to the Town Council any action on an amendment. The Board may promulgate, after public hearing, reasonable rules and regulations governing its procedures not inconsistent with this ordinance.

Section 3. - PROCEDURE UPON RECEIPT OF COMPLAINT

(A) Limitations of Actions

The Board shall not hear any complaint alleging a violation of the Code of Conduct established herein unless said complaint is received by the Board within a period of ninety (90) days from the date on which the act or omission complained of should have been, with reasonable diligence, discovered by the complainant, except that no such complaint shall be heard unless it is received by the Board within a period of one (1) calendar year from the date on which the act or omission complained of occurred.

(B) Board-initiated investigation prohibited

The Board shall act only upon a complaint filed with the Board by any person other than a current member of said Board and shall not investigate alleged violations of the Code of Conduct on its own initiative.

(C) Form and content of complaint

Any complaint to the Board alleging a violation of the Code of Conduct shall be in writing, shall be under oath, and shall include the name of the person alleged to have committed the violation, the specific act or omission which allegedly constitutes the violation, the section of the Code of Conduct allegedly violated, and the date or dates of the alleged violation.

(D) Initial determination

The Board shall notify the complainant in writing, by certified, registered mail, of its receipt of a complaint, not later than five (5) days thereafter. The Board shall meet within fifteen (15) days after receipt of the complaint for the purpose of reviewing the complaint to determine whether or not the allegations contained therein are sufficient to warrant an investigation. Meetings of the Ethics Board held for the purpose of making such determination shall be exempt from the provisions of Sections 1-15, 1-18a, 1-19 to 1-19b inclusive and 1-21 to 1-21K inclusive (Freedom of Information Act).

(E) Investigation

1. If the Board determines that the complaint alleges sufficient facts to warrant such inquiry, the Board shall investigate any alleged violation of this part. Within thirty (30) calendar days after the filing of said complaint, as set forth therein, the Board shall fix the date for the commencement of a Probable Cause Hearing on the allegation contained therein, which date shall not be more than sixty (60) calendar days after the filing of the complaint, and the Board shall give notice by certified or registered mail to the complainant and the respondent, along with a copy of the complaint, of the date fixed for said hearing at least fourteen (14) calendar days before the date of said hearing. Meetings of the Board held for the purpose of making such determination shall be exempt from the provisions of Sections 1-15, 1-18a, 1-19 to 1-19b inclusive and 1-21 to 1-21k inclusive (Freedom of Information Act). Said hearing shall continue from time to time as deemed necessary by the Board until completed.
2. The Board shall investigate any alleged violations to determine whether or not probable cause exists to believe the respondent has violated any

provision of the Code of Conduct. In the conduct of its investigations, the Board shall have the power to hold investigative hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses to compel attendance before the Board and require the production for examination by the Board of any books and papers which the Board deems relevant in any matter under investigation or in question. The Chairman shall administer oaths and affirmations.

3. During the investigation, the respondent shall have the right to appear and be heard and to offer any information which may tend to clear him of Probable cause to believe he has violated any provision of the Code of Conduct. The respondent shall also have the right to be represented by legal counsel and to examine and cross-examine witnesses. The Board shall make no finding that there is probable cause to believe the respondent is in violation of any provision of this part except upon the concurring vote of three (3) of its members.
4. Not later than three (3) days after the termination of its investigation, the Board shall inform the complainant, in writing by certified, registered mail, and the respondent of its finding and provide them a summary of its reasons for making that finding. The Board shall publish its finding upon the respondent's request and may also publish a summary of its reasons for making such finding.

(F) Dismissal

If the Board determines that the complaint does not allege sufficient acts to constitute a violation, the Board shall dismiss the complaint and duly notify the complainant and respondent by certified or registered mail.

(G) Confidentiality of complaints

A complaint alleging a violation of the Code of Conduct shall be confidential except upon the request of the respondent. An investigation conducted prior to a probable cause finding shall be confidential except upon the request of the respondent. If the investigation is confidential, the allegations in the 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, designated party, or commission or staff member.

If the Board makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential except upon the request of the respondent and except that some or all of the record may be used in subsequent proceedings. No complainant, respondent, witness, designated party, or commission or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint which the disclosing party would not otherwise have known. If such a disclosure is made, the Board may, after consultation with the respondent if the respondent is not the source of the disclosure, publish its finding and a summary of its reasons therefore.

The Board shall make public a finding of probable cause not later than five (5) days after the termination of the investigation. At such time, the entire record of the investigation shall become public, except that the Board may postpone examination or release of such public records for a period not to exceed fourteen (14) days for the purpose of reaching a stipulation agreement.

(H) Hearing

If it is found that probable cause exists for the violation of a provision of the Code of Conduct, the Board shall initiate an adjudicatory hearing to determine whether there has been a violation of this Ordinance. Said hearing shall continue from time to time as deemed necessary by the Board until completed.

All hearings of the Ethics Board pursuant to this sub-section shall be open to the public. Such hearings shall be conducted under the Board's rules and regulations, which shall include the following: the Board shall have the power to examine witnesses, receive oral and documentary evidence, subpoena witnesses to compel attendance before the Board, and to require the production for examination by the Board of any books and papers which the Board deems relevant; oral evidence shall be taken under oath; the Chairman shall administer oaths and affirmations. The complainant and respondent shall have the right: (1) to be represented by legal counsel; (2) to present evidence; (3) to examine and cross-examine witnesses; and (4) to receive by registered or certified mail a Memorandum of Decision by the Board within five (5) days after the conclusion of hearings on complaint. The Board shall make a record of all proceedings pursuant to this subsection. The Board shall find no person in violation of any provision of this part except upon the concurring vote of four (4) of its members. Not later than fifteen (15) days after the public hearing conducted in accordance with this subsection to determine whether there has been a violation of this part, the Board shall publish its finding and a

memorandum of its reasons therefore. The Board shall also mail its findings to the authority which appointed, hired or contracted with the respondent.

(I) Penalties

If, based upon a fair preponderance of competent evidence at such hearing, the violation of the Code of Conduct is proved, the Board may order the respondent to be: (1) officially reprimanded; or (2) in the case of public employee, placed on probation up to a maximum of one year or suspended without pay up to a maximum of six months; or (3) assessed a civil penalty of not more than One Thousand Dollars (\$1,000.00) per violation; (4) ordered to make restitution of any pecuniary benefits received because of the violation committed.

No provision of this subsection shall prevent the Ethics Board from reporting the possible commission of a crime to the Chief State's Attorney.

If the Board determines that a more severe penalty should be imposed, it shall, along with its finding, mail said determination and recommendation for the imposition of a more severe penalty to the authority which appointed, hired or contracted with the respondent. Within thirty (30) calendar days of the receipt of said finding and recommendation, said authority shall report to the Board in writing the acceptance or rejection of the Board's recommendation and the reasons therefore.

(J) Subpoenas

The Board may issue subpoenas or subpoenas duces tecum enforceable upon application to the Superior Court, to compel the attendance of persons at its hearings and the production of books, documents, records, and papers.

(K) Appeal to court

Appeals may be taken by any person aggrieved by the Board's decision within thirty (30) calendar days of the date of the Memorandum of Decision to the Superior Court for the Judicial District of Waterbury.

(L) Retention of Records

All records of the Board of Ethics shall be kept in accordance with Connecticut General Statutes. Those records, which have not risen to the level of probable cause, shall be kept in a marked, locked, container within a vault of the Town Clerk, and accessible only to members of the Board of Ethics.

ARTICLE III - CODE OF CONDUCT

Section 1. – GENERAL RULE OF CONDUCT

No Public Official or Public Employee shall engage in any business or transaction or have a financial or personal beneficial interest, direct or indirect, in any business transaction, which is incompatible with the proper discharge of his official duties in the in the public interest or would tend to impair his independence or judgment and action in the performance of his official duties.

Effective with the passage of this ordinance, all Public Officials and Public Employees, upon assuming their duties, shall receive a copy of the Wolcott Code of Conduct. This shall be through the Office of the Town Clerk, their appropriate Personnel Director, or designee. They shall initial for their copy and their acceptance shall be placed in their personnel file or, in the case of Public Officials, the Office of the Town Clerk.

Section 2. – CONFLICT OF INTEREST

(A) Private Business or Professional Enterprise

A conflict of interest exists if the Public Official or Public Employee, has a financial or personal beneficial interest in the outcome or is owner, shareholder, member, partner, officer, employee, or other participant of, or in, a private business or professional enterprise that will be affected by the outcome, or any matter under consideration before him.

(B) Speculative or investment activities

A conflict of interest exists if the Public Official or Public Employee has a financial or personal beneficial interest in the outcome or is owner, shareholder, member, partner, officer, employee or other participant of, or in, a private business or professional enterprise that will be affected by the outcome, or any matter under consideration before him.

(C) Outside Employment

A conflict of interest exists if a Public Official or Public Employee engages in outside employment, which is incompatible with the proper discharge of his official duties and responsibilities.

(D) Duty to Abstain

The failure of any Public Official or Public Employee to abstain from action in any situation where a conflict of interest exists, shall constitute a violation of this code.

(E) Duty to Disclose

Any Public Official or Public Employee, who is financially interested in, or has a personal beneficial interest in any transaction or contract with the Town, or in the sale of real estate, materials, supplies, or services to the Town shall make known promptly by a statement filed with the Town Clerk such interest in any matter on which he may be called to act in his official capacity. He shall refrain from voting upon or otherwise participating in the transaction or the making of such contract or sale.

(F) Litigation

No paid Public Official or Public Employee shall: (1) appear on behalf of private interests before any governmental body of the Town; (2) accept a retainer or compensation that is contingent upon a specific action by a governmental body of the Town; or (3) represent private interests in any action or proceeding against the interests of the Town in any litigation to which the Town is a party.

(G) Conduct of Public Officials

(1) Notwithstanding any provisions to the contrary as may be contained in any special act, the Wolcott Town Charter or this Ordinance, a Public Official has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed by the laws of this state and for the Wolcott Town Charter, if he has reason to believe or expect that he, his spouse, a dependent child or business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity.

(2) Notwithstanding any provisions to the contrary as may be contained in any special act, the Wolcott Town Charter or this Ordinance, any such Public Official does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state and for the Wolcott Town Charter, if any benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a professional

occupation or group to no greater extent than any other member of such professional occupation or group.

(3) Any Public Official who has a substantial conflict may not take official action on the matter.

Section 3. – USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION

No Public Official or Public Employee, shall use or disclose confidential information acquired in the course of his public duties, for the purpose of advancing the financial or other private interests of himself or others.

Section 4. – GIFTS AND FAVORS

(A) In general

No Public Official or Public Employee shall accept any money or gift of significant value, favor or thing of significant value, whether in the form of service, loan, material thing or promise from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any such person accept any money or gift of significant value, favor or thing of significant value that may tend to influence him in the discharge of his duties. If it is impossible or inappropriate to refuse the gift, then it shall be turned over to an appropriate public or charitable institution.

(B) Use of town property

No Public Official or Public Employee shall request or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such Public Official or Public Employee in the conduct of official business.

(C) All citizens to be treated equal

No Public Official or Public Employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

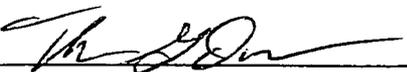
ARTICLE IV – INVALIDATION

In the event any section or provision of this ordinance shall be declared invalid for any reason whatsoever, it shall not affect the other sections or provisions hereof.

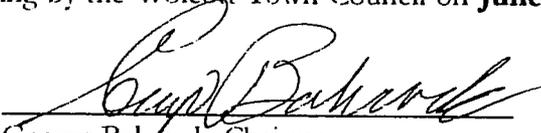
ARTICLE V - REPEAL OF PRIOR ORDINANCE

ORDINANCE #89 ENTITLED “An Ordinance Re-Defining and Clarifying the Powers and Duties of the Board of Ethics” WHICH BECAME EFFECTIVE on October 21, 2005, IS HEREBY REPEALED, and has been replaced with Ordinance #91.

This ordinance was passed at a Regular Meeting by the Wolcott Town Council on **June 19, 2007** and becomes effective on **July 18, 2007**.



Thomas G. Dunn, Mayor
Town of Wolcott



George Babcock, Chairman
Wolcott Town Council

6-20-07

Date

6/19/07

Date

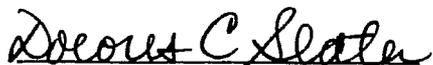
Hearing Date: June 19, 2007

Date Published: June 27, 2007

Effective Date: July 18, 2007

CERTIFICATION

I, Dolores C. Slater, Town Clerk for the Town of Wolcott, do hereby certify that the above is a true and correct copy of the ordinance adopted by the **Town Council** at its Regular Meeting on **June 19, 2007** in which a quorum was present and acting throughout and that the ordinance has not been modified, rescinded, or revoked and is at present in full force and effect.



Dolores C. Slater, Town Clerk

6-25-2007

Date

{SEAL}

**ADDENDUM A
SCHEDULE OF TERMS
ETHICS BOARD**

<u>3 YEAR TERM (2)</u>	<u>2 YEAR TO 3 YEAR TERM (2)</u>	<u>1 YEAR TO 2 YEAR TERM (1)</u>
1981	1981	1981
1984	1983	1982
1987	1986	1985
1990	1989	1988
1993	1992	1991
1996	1995	1994
1999	1998	1997
2002	2001	2000
2005	2004	2003
2008	2007	2006
	2010	2009

**TOWN OF WOLCOTT
PUBLIC NOTICE**

Take notice that a Public Hearing of the Wolcott Town Council will be held at Wolcott Town Hall, 10 Kenea Ave., Wolcott, CT, in the Council Chambers, on Tuesday, June 19, 2007, at 7:00 p.m., for the purpose of discussion and to obtain public comment on the proposed revisions to the current Ethics Ordinance entitled "An Ordinance Re-Defining and Clarifying the Powers and Duties of the Board of Ethics" (#89), that is on file in the Town Clerk's Office.

A copy of the proposed revisions, which would supersede all prior Ethics Ordinances which are currently on file, is available for review in the Town Clerk's Office. Copies will also be available on the night of the hearing.

All interested citizens will have the opportunity to give written & oral comments at the hearing.

**George Babcock, Chairman
Wolcott Town Council**

**Dated Wolcott, CT
June 11, 2007**

**Please publish one time on:
June 12, 2007**

**TOWN OF WOLCOTT
PUBLIC NOTICE**

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**George Babcock, Chairman
Wolcott Town Council
Dated at Wolcott, CT
June 11, 2007
R-A June 12, 2007**

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Legals/
Public Notices

TOWN OF WOLCOTT
LEGAL NOTICE

Take notice that at a Regular Meeting of the Wolcott Town Council held on Tuesday, June 19, 2007, at 7:30 p.m., in the Council Chambers of the Wolcott Town Hall, it was unanimously voted, to adopt "An Ordinance Re-Defining and Clarifying the Powers and Duties of the Board of Ethics" (#91), which followed a Public Hearing, for the purpose of discussion and obtaining public comment on proposed ordinance, held at 7:00 p.m. on the same date and at the same location. In accordance with Section 307 of the Wolcott Town Charter, notice is hereby given of enactment of Ordinance #91, on file in the Town Clerk's Office of the Wolcott Town Hall. Said Ordinance was passed by the Wolcott Town Council on June 19, 2007, and shall become effective on July 18, 2007.

George Babcock, Chairman
Wolcott Town Council
June 20, 2007

Thomas G. Dunn, Mayor
Town of Wolcott
June 20, 2007

Authorized Town Signature
Dolores C. Slater, Town Clerk
Date Published: June 27, 2007
Effective Date: July 18, 2007
R-A June 27, 2007

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STATE OF CONNECTICUT
REQUEST FOR PROPOSAL
JOINT COMMITTEE ON LEGISLATIVE
MANAGEMENT