

APPENDIX A

PART II - CODE OF ORDINANCES
Chapter 2 - ADMINISTRATION
ARTICLE III. - OFFICERS AND EMPLOYEES
DIVISION 2. - CODE OF ETHICS

DIVISION 2. - CODE OF ETHICS ^[8]

⁽⁸⁾ **Charter reference**— Restrictions on acceptance of gifts, § 11.01; prohibited interests in contracts, § 11.02.

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Sec. 2-91. - Definitions.

The following words, terms and phrases when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means a board, commission or committee which is established by town ordinance, town Charter, interlocal contract or state law and any part of whose membership is appointed by the city council.

Business entity or *entity* mean a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust or any other entity recognized in law.

Employee means a person employed or paid a salary by the town on a full-time basis excluding officers.

Incidental interest means an interest in a person, entity or property which is not a substantial interest and which has insignificant value, or which would be affected only in a de minimis fashion by a decision. This division does not establish dollar limits on the terms "insignificant value" and "de minimis," which shall have their usual meanings and be subject to interpretation on a case by case basis.

Interest or *benefit* means anything reasonably regarded as economic gain or economic advantage, other than incidental or remote interests. The term applies to the official and also to any person who is related to such official within the second degree by consanguinity or affinity.

Officer means the mayor and members of the city council.

Official means officers, employees and members of any board which is established by

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town ordinances, town charter, interlocal contract, or state law and any part of whose membership is appointed by the city council.

Remote interest means an interest of a person or entity, including an official who would be affected in the same way as the general public. The interest of a councilmember in the property tax rate, general town fees, town utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.

(Code 1982, § 2-2)

Cross reference— Definitions generally, § 1-2.

Sec. 2-92. - Policy.

(a) It is hereby declared to be the policy of the town that the proper operation of democratic government requires that:

- (1) Officials be independent, impartial and responsible only to the people of the town;
- (2) Governmental decisions and policy be made using the proper procedures of the governmental structure;
- (3) No official have any interest, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest;
- (4) Public office not be used for personal gain;
- (5) The city council at all times be maintained as a nonpartisan body; and
- (6) Officials fully comply with state statutes, as amended, concerning conflicts of interest.

(b) To implement this policy, the city council has determined that it is advisable to enact this code of ethics for all officials, whether elected or appointed, paid or unpaid, advisory or administrative, to serve not only as a guide for official conduct of the town's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

(Code 1982, § 2-3)

Sec. 2-93. - Standards of conduct.

No official shall:

- (1) Accept or solicit any money, property, service or other thing of value by way of gift, favor, loan or otherwise which he knows or should know is being offered or given with the intent to unlawfully influence such person in the discharge of official

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duties, or in return for having exercised or performed official duties.

State law reference— Bribery, V.T.C.A., Penal Code § 36.02; gift to public servant by person subject to his jurisdiction, V.T.C.A., Penal Code § 36.08.

(2) Use his official position to secure special privileges or exemptions for himself or others.

(3) Grant any special consideration, treatment or advantage to a person or organization beyond that which is available to every other person or organization. (This shall not prohibit the granting of fringe benefits to town employees as part of their contract of employment or as an added incentive to the securing or retaining of employees).

(4) Disclose information deemed confidential by law that could adversely affect the property or affairs of the town, or directly or indirectly use any information understood to be confidential which was gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.

(5) Transact any business on behalf of the town in his official capacity with any entity with which he is an officer, agent or member or in which he has an interest. In the event that such a circumstance should arise, no violation of this subsection occurs if he shall make known his interest, and:

a. In the case of an officer or board member, refrain from discussing the matter at any time with members of the body of which he is a member or any other body which will consider the matter and abstain from voting on the matter; or

b. In the case of an employee, turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further to do with the matter involved.

(6) Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the town, or which might impair his independent judgment in the performance of his public duty.

(7) Personally provide services for compensation, directly or indirectly, to a person, entity or organization who is requesting an approval, investigation, or determination from the body or department of which the officer or employee is a member. This restriction does not apply to outside employment of an officer if the employment is the officer's primary source of income.

(8) Receive any fee or compensation for his service as an officer or employee of the town from any source other than the town, except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a public or private organization that he performs for the town if there is no conflict with his town duties and responsibilities.

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(9) In the case of a member of the city council or an employee, personally represent, or appear in behalf of, the private interests of others:

- a. Before the city council or any town board or department;
- b. In any proceeding involving the town; or
- c. In any litigation to which the town is a party.

(10) In the case of a board member, personally represent, or appear in behalf of, the private interests of others:

- a. Before the board of which he is a member;
- b. Before the city council;
- c. Before a board which has appellate jurisdiction over the board of which he is a member; or
- d. In litigation to which the town is a party if the interests of the person being represented are adverse to the town and the subject of the litigation involves the board on which the board member is serving or the department providing support services to that board.

(11) Use his official position or town-owned facilities, personnel, equipment, supplies, vehicles, printing facilities, postage facilities, long-distance telephone services or any other resources for private purposes, personal advantage, pecuniary gain for such official or for others or for any political campaign for himself or others. However, this shall not prohibit an official from using his official position to promote or encourage economic development and businesses within the town, provided (a) the official, and any person related to the official within the second degree by consanguinity or affinity, does not receive a benefit from such promotion or encouragement, and (b) the promotion or encouragement of economic development and businesses is not for the purpose of promoting, and does not promote, other than incidentally, the official or any person related to the official within the second degree by consanguinity or affinity

(12) Use the prestige of his position with the town in behalf of any political party.

(13) Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of valid town ordinances, rules or regulations or the achievement of official town programs.

(14) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the town or that reflects discredit upon the government of the town.

(Code 1982, § 2-4(a)—(n))

Charter reference— Prohibited interests in contracts, § 11.02.

Sec. 2-94. - Prohibition on conflict of interest.

An official may not participate in a vote or decision on a matter affecting a person, entity or property in which the official has an interest. In addition, an official who serves as a corporate officer or member of the board of directors of a nonprofit entity which is not appointed by the city council may not participate in a vote or decision regarding funding by or through the town for the entity. Where the interest of an official in the subject matter of a vote or decision is remote or incidental, such official may participate in the vote or decision and need not disclose the interest.

(Code 1982, § 2-5)

Sec. 2-95. - Restrictions on former town officers and employees.

(a) When used in this section, the terms "before the town" shall mean before any official of the town.

(b) When used in this section, the term "represent" shall include all communications with and appearances before the town in which the town is asked to make a decision, as that term is defined in this chapter. The term "represent" does not include communications and appearances involving only ministerial action on the part of the town.

(c) When used in this section, the term "case, project or matter" shall refer to specific cases, projects or regulatory matters, rather than generic policies, procedures or legislation of general application. For instance, the zoning process or site plan review process is not a "case, project or matter" within the meaning of this section; however, a specific zoning case or site plan would constitute a "case, project or matter" subject to the restrictions imposed in this section. It is not the intent of this division, and this division shall not be construed, to proscribe the practice of any profession or occupation by former town officials and employees other than before the town and as provided in section 2-96

(d) An employee in a position which involves significant decision-making, advisory, or supervisory responsibility, or an officer who leaves the service or employment of the town shall not, within 12 months after leaving that employment or service, represent any other person or entity in any formal or informal appearance, if the officer or employee has received or shall receive remuneration from the person, entity or members of the entity being represented:

- (1) Before the town concerning a case, project or matter over which the person exercised discretionary authority as an employee or officer; or
- (2) Before any other agency on a case, project or matter over which the person exercised discretionary authority as an employee or officer.

(e) A former employee or officer who is subject to the requirements of subsection (d) of this section shall, during the 24 months after leaving the service or employment of the

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town, disclose his previous position and responsibilities with the town and the work performed, if any, as an employee or officer regarding the matter for which he is appearing before the town whenever he represents any other person or entity in any formal or informal appearance before the town.

(f) In any formal or informal appearance before the town, a person representing a person or entity which employs a former officer or employee who had discretionary authority over the project or matter for which the person or entity is appearing before the town shall disclose any former involvement of such former officer or employee in the project or matter. This disclosure requirement shall be in effect for 24 months after the former officer or employee leaves town service or employment.

(g) No employee or officer shall approve or vote to approve any oral or written contract for land services, supplies or materials between the town and either a former employee or officer or an entity which employs such former employee or officer during the 12-month period following such former employee's or officer's departure from the town's employment or service. Notwithstanding the foregoing, upon a finding by the city council that the economic or other benefit to the former employee or officer is minimal or insignificant, the city council may vote to waive the prohibition contained in this subsection.

(Code 1982, § 2-6)

Sec. 2-96. - Accepting employment from an entity regulated by town prohibited.

An employee in a position which involves significant reporting, decision-making, advisory, regulatory or supervisory responsibility who leaves the service or employment of the town shall not, within six months after leaving that service or employment, seek or accept employment from an entity which had appeared for formal action or decision before the body of which such employee was a member or which had been subject to the employee's regulation or inspection during such employee's employment with the town.

(Code 1982, § 2-7)

Secs. 2-97—2-115. - Reserved.