

# CONFLICT OF INTEREST

## CHARTER

### 9-3. Conflicts Of Interest.

Any elected or appointed officer or any employee of the Town who has a conflict of interest, as set forth in Section 10-1, "Conflicts of interest and standards of conduct", of the Town's Code of Ordinances, as amended, shall, in addition to the requirements of Section 10-1, disclose that interest to the Council who shall record such disclosure upon the official record of their meetings. Violation by any such officer or employee of the provisions of this section shall be grounds for his removal. Violations of this Section with the knowledge, express or implied, of any person or corporation participating in such contract, transaction, or decision shall render the same voidable by the Council or by a court of competent jurisdiction.

## CODE OF ORDINANCES

### Sec. 10-1. Conflicts of interest and standards of conduct.

(a) *Declaration of policy.* The proper operation of the government of the Town of Cheshire requires that public officers and employees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of the government structure and free of coercive or other improper influence; that public office and employment not be used for personal gain; and that the public have confidence in the integrity of its government. The purposes of this section are to set forth standards of ethical conduct, to assist public officers and employees and persons dealing with them in acting in the performance of their duties, and to maintain and enhance a tradition of responsible and effective public service. In recognition of these goals, there is hereby established for the Town of Cheshire the following standards.

(b) *Definitions.* As used in this section, the following words or phrases, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

(1) *Financial interest* shall be defined as any ownership of stocks, notes, bonds, obligations or other pecuniary interest in or with any person, partnership, firm or corporation which is involved in any matter, contract, subcontract, service, transaction, administrative decision or controversy directly or indirectly with the Town of Cheshire and which is not in common with the other members of the agency and the citizens of the town. Financial interest shall include the financial interest of any person related to any officer or employee by blood or marriage in a degree closer than the fourth degree of consanguinity or affinity (determined by the civil law method). A divorce or separation between spouses shall not be deemed to terminate any such relationship. In the case of members of the town council, financial interest shall also include any interest direct or indirect in any labor contract to which such council member may be a party or

in any appropriations to any town department or agency through which the council member may be employed.

(2) *Improper influence* shall be defined as: "coercion," as that term is defined in section 53a-192 of the Connecticut General Statutes; "bribery," as that term is defined in sections 53a-146 through 53a-147 of the Connecticut General Statutes; and as communications or attempts to communicate privately either in person or by an agent with any public officer or employee concerning the substantive details or wisdom of any proposed or pending application or appeal before that public officer or employee wherein a decision will be made approving or denying any permit, license, regulation, appeal or enforcement proceeding after a public hearing. Communications by the town attorney, special counsel, town engineer, town planner and other staff members or consultants hired to advise and assist public officers and employees in their duties as permitted by law shall not be considered an improper influence.

(3) *Personal interest* shall be defined as any interest which is incompatible with the proper discharge of one's official duties in the public interest or which would tend to impair one's independence of judgment or action in the performance of one's official duties. It is either an interest in the subject matter or a relationship with the parties before the public officer or employee which impairs or reasonably might impair the impartiality expected to characterize a public officer or employee. A personal interest can take the form of favoritism or hostility. It is a personal bias or prejudice which imperils or reasonably appears to imperil the open-mindedness and sense of fairness which a public officer is required to possess.

(4) *Public hearing* shall be defined as a hearing authorized or required to be held by law at which the applicants, parties or members of the public have due process rights. The term "public hearing" includes, but is not limited to, public hearings held by hearing officers and regulatory agencies of the town, but shall not include hearings held by the town council on ordinances, budgets or appropriations or other hearings held by other town agencies or public officers or employees held for informational purposes where no permit, license, regulation, order or appeal will be approved, denied, suspended, revoked or decided.

(5) *Agency* shall be defined as any multimember board, commission, authority, committee or agency of the Town of Cheshire.

(6) *Prima facie* shall be defined as a fact presumed to be true unless disproved by a preponderance of credible evidence to the contrary.

(7) *Public officer* or *employee* shall be defined as any person, officer or employee holding a position of election, appointment or employment in the service of the Town of Cheshire whether paid or unpaid, including members of any board, commission, authority, committee or agency of the town.

(c) *Conflicts prohibited.* No public officer or employee of the town shall:

(1) Have any financial interest or any personal interest, either directly or indirectly, in any matter involving a decision pending before him, or in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by the Town of Cheshire which contract or purchase order is to be recommended, made, granted or awarded by such public officer or employee or by an agency of which he is a member.

(2) Accept or receive, directly or indirectly, from any person, partnership, firm or corporation to which any decision, permit, license, contract or purchase order may be awarded by the town, by an agency or by a public officer or employee any money or anything of value whatsoever (by

rebate, gift or otherwise), or any promise, obligation or contract for future reward or compensation as consideration for awarding or influencing the award of such decision, permit, license or contract or purchase order.

(3) This section shall not prohibit the acceptance of reasonable and customary dinner favors in the course of town business by public officers or employees.

(4) A public officer or employee shall prima facie not be considered to have a prejudice or bias as to issues pending before him or his agency merely because of his personal expertise in any field of endeavor, and this shall be especially so where by virtue of the Cheshire Charter, a state statute or a Cheshire ordinance a special expertise or philosophy is desired or required as a qualification for appointment or election of a public officer or employee.

(d) *Improper influence prohibited.* No person, partnership, firm or corporation shall improperly influence or attempt to improperly influence either directly or indirectly any public officer or employee of the town.

(e) *Solicitation of private communications prohibited.* No public officer or employee shall encourage, make or accept any private communications concerning any matter where a decision is to be made after a public hearing. If a public officer or employee inadvertently receives such a communication, he shall make the contents of the communication a part of the record of the public hearing.

(f) *Procedure.* Whenever a financial interest or a personal interest, as defined in this section, exists, the person so interested shall, in addition to such other requirements of law;

(1) In the case of a member of any agency:

- a. Disclose such interest and enter such fact in the official records of such agency; and
- b. Abstain from participating publicly or ex parte in any hearing, discussions, debate or decisions of such agency or with members thereof of which he is a member regarding the matter in which such a conflict may exist;

(2) In the case of a single public officer or employee of the town:

- a. Disclose such interest to the town manager or the superintendent of schools, as the proper case may be, or, in the case of the town manager, to the chairman of the town council, or, in the case of the superintendent of schools, to the chairman of the board of education; and
- b. Abstain from participating in any relevant hearing, discussion, debate or decision on any matter to which he or she has control or decision-making power over as such public officer or employee.

(3) This section shall not be construed to preclude discussion of generic product type or technology, but does prohibit the participation in any hearings, discussions, debates or decisions of any agency, etc., by a public officer or employee concerning proprietary products and services with which a member has a financial interest.

(4) Whenever any agency member is requested by another member of that agency, or by a party to the matter pending before such agency or by a member of the public who may be aggrieved by the decision of such agency, to abstain from participating in any hearing, discussion, debate or vote on any matter which is pending before such agency for the reason that he has a conflict of interest, and if such agency member refuses to so abstain, the remaining unchallenged members shall consider any relevant evidence concerning such claimed conflict of interest, as defined by this section, and vote on such request for abstention as follows:

- a. Sustain the member's refusal to abstain and proceed with the meeting; or

b. Overrule the member's refusal to abstain and proceed with the meeting without the member's participation.

(5) Whenever any public officer or employee of the town reasonably determines that an attempt to improperly influence him has occurred, he shall report that fact to the agency of which he is a member, the town manager, superintendent of schools, town attorney, chairman of the town council, chairman of the board of education or the chief of police, or any combination of them, as may be appropriate under the circumstances. The town attorney shall be consulted on all reports and he shall notify the town council of his recommendations for further action.

(g) *Disclosure pursuant to section 9-3 of the Cheshire Charter.* Disclosure of financial interest required to be made pursuant to section 9-3 of the Cheshire Charter shall be updated annually to disclose the continued existence of the conflict, any changes to the degree and nature of the conflict, or the termination of the conflict and the reason for that termination.

(h) *Penalties.* A violation of any provision of this section may constitute a cause for removal from office and/or dismissal from employment by the town or such other disciplinary, civil, judicial or administrative action against the public officer or employee as the appointing authority and/or the town council may determine proper. Any person, partnership, firm or corporation who violates paragraph (d) of this section shall be fined one hundred dollars (\$100.00) for each and every offense.

(i) *Voidable action.* Any contract or purchase order or decision made or adopted in violation of this section shall be voidable by action of the town council of the Town of Cheshire.

(j) *Other laws.* This section shall not be interpreted so as to be in conflict with, but rather in addition to, any other general or specific law relating to ethical conduct, interest or procedure by town officers and employees. Any personnel rules and regulations as adopted in accordance with section 8-2 of the Town Charter may be more restrictive but not less restrictive than the standards contained in this section.

(k) *Severability.* If any section, subsection, clause, provision or portion of this section shall be held to be invalid, ultra vires or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, subsection, clause, provision or portion of this section.

(l) *Distribution of section.* The town manager shall cause a copy of this section to be distributed to every public officer and employee of the town within thirty (30) days after enactment. Each public officer and employee elected, appointed or engaged thereafter shall be furnished a copy before entering upon the duties of his office or employment.