

ORDINANCE NUMBER 706 SUPPLEMENTAL
AMENDING ORDINANCE 640 SUPPLEMENTAL CONCERNING
THE STAMFORD MUNICIPAL CODE OF ETHICS
Adopted March 1, 1993

WHEREAS, the ordinance creating Stamford Municipal Code of Ethics does not provide for alternate members: and

WHEREAS, the Ethics Ordinance does not provide for a time limitation for the commencement of actions; and

WHEREAS, it has been determined that it is in the best interest of the City of Stamford to specifically list some of the violations of the Stamford Municipal Code of Ethics.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF STAMFORD THAT:

Ordinance Number 640 Supplemental is hereby repealed and the following shall replace it:

Section 1. **TITLE**

This ordinance shall be known and referred to as "The Stamford Municipal Code of Ethics".

Section 2. **DECLARATION OF POLICY**

PUBLIC SERVICE IS A PUBLIC TRUST, and the proper operation of the City of Stamford requires that all city officers and employees, whether elected or appointed, paid or unpaid, be impartial and responsible to the public. Public office and employment must not be used for personal or financial gain or advantage. The public needs and deserves to have confidence in the integrity of the municipal government of our city.

Officers and employees of the City of Stamford must refrain from personal, business, financial, and political activities that can reasonably be interpreted to reflect adversely on the individual's fidelity and impartiality, having regard for the nature and scope of their official responsibilities.

In recognition of the aforementioned principles, there is hereby established a Code of Ethics for all city officers and employees.

Section 3. **DEFINITIONS**

"Agency" - includes a board, agency, commission, department or other entity of the city.

"Employee" - means an individual employed by the city, whether as a classified employee, unclassified, permanent or temporary, full time or part time, or employed by contract on a continuing basis, and all employees of the Board of Education.

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"Immediate Family" - shall include, but not be limited to a spouse, child, grandchild, brother, sister, in-laws; parent or grandparent, or persons who reside in the same household.

"Individual" means a natural person.

"Officer" means an individual elected to a municipal office, or appointed by the Mayor, including, but not limited to "ad hoc" committee members and members of the Board of Education, but excluding justices of the peace and constables.

"Person" - means and includes associations, firms, partnerships and bodies politic and corporate as well as individuals.

"Probable Cause" - means more than mere suspicion. There must be facts and circumstances within the Board's knowledge, and of

which they have trustworthy information, sufficient to justify the belief of a reasonable person that a violation of the Code of Ethics has occurred.

Section 4. CONFLICTS OF INTERESTS - INTERFERENCE WITH DUTIES

No officer or employee shall engage in any business or transaction or have an interest, directly or indirectly, which is in conflict with or incompatible with the proper discharge of their official duties or might influence or impair their independence of judgment and action in the performance of said duties.

Section 5. PROHIBITED INTERESTS

A. Unless otherwise provided by law, an officer or employee shall not deliberate or participate in a decision or action by the agency of which the individual is a member or is employed, if said individual or any member of their immediate family has any interest in the matter or would be likely to gain or lose any benefit that is not common to the general interest of other citizens of the city.

B. An officer or employee shall not grant any special consideration, treatment or advantage to any person beyond that which is generally available to other citizens of the city.

C. An officer or employee shall not receive any special consideration, treatment or advantage in any activity or business transaction in which the city is a client or a customer beyond that which is generally available to other citizens of the city.

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D. Subsections 5A, 5B and 5C of this ordinance do not prohibit:

- (1) An officer or employee being employed by a person having a contract of a kind available to all through open bidding with the city if the preparation, procurement, and performance of the contract are not before the officer's or employee's agency.
- (2) A purchase or sale between the city and an officer or employee of the city of property or an interest in, or acquisition by condemnation by the city, if the transaction is conducted according to applicable procedure. The officer or employee must take no part in the transaction on behalf of the city. The terms of the transaction must be approved in writing by an officer or board independent of or having authority over the officer or employee.
- (3) An officer or employee entering a contract or transaction with the city, not within their agency, of a kind available to all through open bidding.
- (4) Performance of a contract entered prior to an individual's having become an officer or employee of the city if the contract is disclosed in accordance with Section 11 of this ordinance.
- (5) An officer or employee being employed by a newspaper that publishes a public notice, resolution, ordinance or other document, the publication of which is required by law.
- (6) An officer or employee being employed by a public utility regulated by the Public Utilities Commission.

Section 6. PROHIBITED REPRESENTATION

- A. No officer or employee shall represent a person, other than the city, before the agency of which they are a member or by which they are employed, or an agency under supervisory authority of themselves, except for representation of constituents by an officer in the course of their responsibilities as such. No compensation or gift may be accepted in connection with such representation.
- B. An officer or employee who is employed or under retainer by a person having a matter pending before the agency of which the officer or employee is a member shall disclose that fact and shall abstain from participation in the matter. Participation includes, but is not limited to discussion and/or voting on the matter.

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Section 7. PROHIBITED USE OF CITY PROPERTY AND FACILITIES

No officer or employee shall use or authorize others to use city owned property, including vehicles and facilities, except:

- (a) for city business; or
- (b) for purposes and on terms generally available to other persons: or
- (c) according to a contract of employment with the city in which use of such property is part of the compensation, or term of employment.

Section 8. PROHIBITED USE OF INFLUENCE AND INFORMATION

A. An officer or employee shall not attempt to influence any other officer or employee about any matter before any city agency in which the former or any member of their family has an interest, or in which said officer or employee would be likely to gain or lose any material benefit that is not common to the general interest of other citizens of the city. This paragraph does not prohibit an officer or employee from communicating about a matter in which they have a property, contract or other legally protected interest as a citizen of the city, if the communication is:

- (1) With an officer or employee responsible for the matter on behalf of the city; and
- (2) Reasonable and necessary in transacting the matter and is conducted by means and in terms that other persons generally might lawfully use in the circumstances.

B. Unless otherwise required by state law, an officer or employee shall not disclose city information other than in accordance with established city procedure where it is reasonably foreseeable that disclosure of the information will permit the officer or employee or any other person to obtain a financial or other material benefit that is not common to the general interest of other citizens of the city.

C. An officer or employee shall not use information concerning the property or governmental affairs of the city other than that which is generally available to the public, for the purpose of advancing the financial or personal interest of themselves or others.

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Section 9. PROHIBITED GIFTS

An officer or employee shall not solicit or accept any gift, form or service, compensation, or anything of value other than that provided for their office or under the terms of their employment. This paragraph does not prohibit:

- (a) Gifts or social courtesies related to a family relationship or friendship between the officer or employee and the donor, which are not designed to influence the proper judgment or action of the officer or employee in a matter within their authority.
- (b) Public, governmental-sponsored, or informational events, generally accepted as a condition of office or employment, where refreshments may be served, which are not designed to influence the proper judgment or action of the officer or employee in a matter within their authority.
- (c) Political contributions received in compliance with law.
- (d) Loans obtained according to commercial practice at the prevailing rate of interest.
- (e) Customary performance, merit awards or honorariums, consistent with municipal practices.

Section 10. SPECIFIC VIOLATIONS

A. Ordinances

It shall be a violation of the Stamford Municipal Code of Ethics for any city officer or employee to willfully violate the provisions of:

- (1) Ordinance 683 Supplemental, concerning the purchasing of supplies, materials, equipment and services.
- (2) Ordinance 677 Supplemental, guaranteeing Legislative Access to City Records and Data.

B. Budget line items

It shall be a violation of the Stamford Municipal Code of Ethics for any City officer or employee to intentionally misrepresent any matter concerning budget line items.

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C. Board of Ethics' Access to Information

It shall be a violation of the Stamford Municipal Code of Ethics for any city officer or employee to intentionally deny access to information requested by the Board of Ethics in the course of an investigation or a public hearing, except to the extent that said city officer or employee is required or entitled to do so under relevant federal, state or local law.

D. Additional Specific Violations

The Board of Representatives may, from time to time pass ordinances with the specific intent that said ordinances are to be incorporated into and enforced through the Ethics process.

E. Examples only

The violations listed in this section are merely specific examples of code of ethics violations. Violations of the code are not limited to said examples.

Section 11. DISCLOSURE OF INTERESTS

A. Any municipal officer or employee who has, knows they will have, or later acquires, an interest in any matter under consideration before them, or their department, in their or its official capacity shall disclose, as soon as they have knowledge of such actual or prospective interest, in writing or on the record, the nature and extent of such interest to the chairperson or agency, commission or board of which they are a member, or in the case of an employee, to their superior. Such persons shall not debate the matter and shall disqualify themselves from voting or acting on such matter.

B. No officer or employee who has a conflict of interest in regard to a transaction or business from which the officer or employee has or should have disqualified themselves, shall communicate, concerning that public business, with any person who will participate in the action to be taken on that business.

C. Any officer or employee whose conduct occasions an inquiry by the Board of Ethics concerning their compliance with this Code shall, upon request by the Board, supply relevant information as detailed by the Board, except to the extent they are entitled to decline to do so on the basis of constitutional rights or governing state or federal law. Failure to supply information as requested shall result in a violation of this Code.

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Section 12. NEGOTIATION OF FUTURE EMPLOYMENT

An officer or employee shall not solicit future employment with any person who has a substantial matter pending before the agency in which the officer or employee is employed during said period of employment or during the period of time said officer holds office. A matter is "substantial" if it involves a financial value of \$1,000 or more or involves a question of policy of comparable significance.

Section 13. SUBSEQUENT EMPLOYMENT

An individual who has served as an officer or employee shall not:

- A. Assist any person, other than the city, in any matter in which said individual participated personally and substantially during their service with the city.
- B. Within one year after termination of their service, assist any person, other than the city, in any matter that was pending before the agency in which they were employed: or appear before the agency in which they were a member or employed, or assist any other person to make such an appearance.

Section 14. BOARD OF ETHICS

A. Appointment of members and alternates

- (1) The Board of Ethics shall consist of five (5) members and two (2) alternates.
- (2) All Board members and alternate Board members shall be resident electors of the City of Stamford. They shall be appointed by the Mayor and approved by a -vote two-thirds (2/3) of the members of the Board of Representatives present and voting. All members and alternates shall serve without compensation for a term of five years, which shall expire on June 30 of the final year of a member's term, subject to continuance in office for a period not to exceed the lesser of 6 (six) months or until their successor has been nominated by the Mayor and the nomination has been approved by the Board of Representatives.

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(3) In order to preserve continuity on the Board, the first terms of the two alternates shall be staggered so that one of the alternates serves a term of 3 (three) years and the other shall serve for 5 (five) years. Upon the expiration of the original terms, all alternates shall then serve five year terms as stated in Section 14A(2), above.

(4) Notwithstanding the foregoing, the term of a member or an alternate shall not end until the conclusion of any case, initiated during the member's or alternates' term, which has preceded beyond a finding of probable cause.

(5) Alternates are considered "working members of the Board" and at the discretion of the Chairperson they may ask questions and otherwise participate in the informal and formal hearing process. The Chairperson shall have the right to limit such participation in any manner that he or she deems necessary.

B. Organization

The Board shall elect a chairperson and a secretary. The Board shall keep minutes of its meetings which shall be filed in the Office of the Town and City Clerk, and shall hold meetings at the call of the chairperson and at such times as the Board may determine. Three members present shall constitute a quorum in order for the Board to conduct official business. For the purposes of this section alternates may be considered as "members" for the purpose of establishing that a quorum is present.

C. Powers and Duties

1. Advisory Opinion

The Board shall render advisory opinions concerning officers and employees with respect to this Code of Ethics, pursuant to a written request from any officer or employee concerned. Such advisory opinion shall be binding on the Board, officer or employee until amended or revoked, and reliance on it in good faith is an absolute defense in any action or proceedings brought under the provisions of this Code of Ethics. The Board shall file said advisory opinion with the Office or the Town and City Clerk within sixty (60) days of receipt of the request. The advisory opinion so filed may contain such deletions as may be necessary to prevent disclosure of the identity of the officer or employee involved, if agreed to by both the person involved and the Board of Ethics.

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2. Investigations

a. Filing of the Complaint, Notification, and Amendment

Upon receipt of a written complaint by the Chairperson, or by the Secretary of the Board in the Chairperson's absence, the Board of Ethics shall investigate said complaint, alleging a violation of this Code of Ethics by an officer or employee or by a person who was an officer or employee within the preceding year. Said written complaint may be submitted by any person and shall be on a form prescribed by the Board and signed under penalty of false statement. The complaint shall contain the specific act or acts which allegedly constitute the violation. The Board may delete, defer, or reject any part of a complaint that does not conform to its requirements. No member of the Board of Ethics may initiate a complaint.

The Board shall notify, by registered or certified mail, or by personal service by a sheriff, constable or indifferent person, any respondent against whom a complaint is filed not later than seven (7) days after receipt of such complaint. A copy of such complaint and any subsequent changes shall accompany such notice. The Board shall also notify the complainant in writing of its receipt of such complaint and any subsequent changes not later than seven (7) days after receipt of the complaint.

Subsequent to the filing of the original complaint, the Board may, at its discretion, amend any complaint filed with it to include other violations which it reasonably suspects to have occurred, based on allegations in the original complaint. Any such amendments shall be in writing and a copy shall be sent, by registered or certified mail, or personal service by a sheriff, constable or indifferent person, to the respondent and complainant within seven (7) days of such amendment.

b. Investigation of Probable Cause

The Board shall investigate the complaint and such amendments as it may have added. For this purpose it may hold informal hearings to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics.

Any investigation and hearing shall be confidential and shall not be open to the public unless the respondent requests that such investigation, hearing and disclosure be open or if there is a finding of probable cause by the Board of Ethics. Pending the outcome of the probable cause hearing, no member of the Board of Ethics shall disclose their knowledge of such investigation to a third party. The respondent shall have the right to appear and be heard and to offer any information by way of answer or denial of the allegations.

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c. Finding of Probable Cause

A decision regarding probable cause shall be made within sixty (60) days after the date that the Board received the complaint. A finding that probable cause exists shall require four (4) concurring votes.

If the investigation indicates that probable cause that the officer or employee has violated the Code of Ethics does not exist, the Board shall so find and shall dismiss the complaint. If the investigation indicates that probable cause that the respondent has violated the Code of Ethics does exist, the Board shall so find and initiate public hearings which shall commence within thirty (30) days of its finding.

The complainant and respondent shall be notified in writing of such decision not later than seven (7) days after such decision has been made. Such notification shall be either by registered or certified mail, or personal service by a sheriff, constable or indifferent person.

3. Extension of Time

Upon extraordinary circumstances extensions of time to any of the time limitations specified herein may be granted by the Board upon a vote of four sitting members. However, in no event shall the total modified time period, i.e. the original time period plus the extension(s), exceed double the original time periods prescribed by this ordinance.

The Board shall give written notice of any extension(s) of --time to the respondent and the complainant.

(a) Exceptions:

(1) No extensions may be given for time periods required for notification(s).

(2) No extensions may be given for the time limitation for ruling on actions unless otherwise specified herein.

4. Rules and Procedure for Public Hearings

(a) Any public hearings shall be conducted under the Board's rules and regulations, which shall include the following: Oral evidence shall be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and upon request, parties and the Board shall be given the opportunity to compare the copy to the original: and the complainant and respondent shall have the right: 1) to be represented by counsel, 2) to

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present oral or written documentary evidence, which is not irrelevant, immaterial or unduly repetitious; 3) to examine and cross-examine witnesses required for a full and true disclosure of the facts; and 4) to receive by registered or certified mail, or by personal service by a sheriff, constable or indifferent person copies of the Memorandum of Decision by the Board within thirty (30) days after the *conclusion of* hearings on said complaint.

(b) The Board of Representatives shall have the power to adopt Rules of Procedure for hearings conducted pursuant to the Code of Ethics, in addition to those contained in Section C.4.a. above, by Resolution adopted of a majority vote of the entire Board, after publication of the text of the proposed Rules of Procedure or amendments thereto in a newspaper having a general circulation in the city. Any Rules of Procedure or amendments thereto shall become effective 30 (thirty) days after adoption, and the full text of the Rules for Procedure, adopted in accordance with this section, shall be available for public inspection at the office of the Town and City Clerk.

(c) All Board of Ethics hearings shall be conducted in a manner in which they provide the respondent(s) with all due process that is required by federal, state and local law.

(d) Upon the request of either the complainant, the respondent, or any member of the Board, the Board shall cause the hearings to be recorded and a transcription to be made. If a copy of the transcript requested by either the respondent or complainant, the requesting party shall bear the costs for the same.

(e) The Board may subpoena witnesses to testify and may compel production of documents and other effects as evidence, and failure to obey such subpoena shall constitute a misdemeanor.

(f) The Board shall file its Memorandum of Decision with the Mayor, Town and City Clerk, Corporation Counsel, governing body or other public office of an agency, as it deems appropriate. There must be three (3) concurring votes to find a violation.

5. Freedom of Information Act

In order to ensure the public's right of access to the proceedings held in accordance with the provisions of this ordinance, the Board of Ethics shall follow the requirements of the Connecticut Freedom of Information Act.

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6. Annual Advisory Report

on or before June 1 or each year, the Board shall submit to the Mayor and the President of the Board of Representatives, a written report which shall include, but not be limited to: (a) a summary of its activities; (b) an analysis of developments and trends in the area of public ethics; and (c) recommendations for improvements in the Municipal Code of Ethics.

7. Ethics Handbook

The Board shall create and maintain a handbook, to be distributed together with this ordinance, to all officers and employees. A copy of the handbook shall be kept at the Town Clerk's Office.

Section 15. EFFECT OF VIOLATION

A. A violation of this Municipal Code of Ethics:

- (1) by an elected officer shall be considered "dereliction of official duty" a cause of impeachment or removal from office under Section C1-90-1 of the Stamford Charter; and
- (2) by a member of an appointed board or commission shall be considered "misconduct in the performance of duties," a ground for removal under Section C6-00-3(c)(1) of the Stamford Charter: and
- (3) by a municipal employee shall be considered "misconduct", a ground for demotion in rank or grade or discharge under Section C6-140-8(2) of the Stamford Charter.
- (4) Any individual who is found in violation of this ordinance may be subject to a law suit by the City to recover damages, if any, that are incurred by the City as a result of said individual's unethical conduct. The costs of the ethics ordinance hearing process shall not be included in the aforementioned damages and shall not be recoverable under the provisions of this subsection.
- (5) Any City officer or employee who is determined to have violated the provisions of this ordinance shall have a copy of said decision placed in his or her official personnel file.

B. The effect of a violation of this Code on the validity of a decision or action in connection with which the violation occurred shall be determined by general principles of law.

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Section 16. JURISDICTION

A. Time limitation for ruling on actions

No allegation in a complaint of a violation of the Stamford Municipal Code of Ethics shall be ruled upon by the Board of Ethics, if three (3) years or more have passed between the time of the alleged violation and the filing of the complaint. In the event that multiple violations have been alleged, only those violations alleged in the complaint which have occurred within three (3) years of the filing of the complaint to the Board may be ruled upon.

B. Tolling of Period of Limitation

In the event that a violation or evidence of a violation of this Code of Ethics has been actively concealed, such action shall have the effect of tolling the period of limitation during said period of concealment.

C. Continuing investigations

If an officer or employee under investigation leaves office, or employment, the Board by a majority vote shall have the power to continue the investigation.

Section 17. SEVERABILITY

If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this ordinance.

Section 18. HEADINGS

The headings herein are included solely for convenience and shall not be considered as determinative with regard to the contents of the underlying paragraphs.

Section 19. REPEAL OF ORDINANCE

Ordinance Number 640 Supplemental is hereby repealed and rendered null and void, except that this repeal provision shall not be construed as abating actions or proceedings now pending under or by virtue of the specific ordinance being repealed, or as affecting the liability of any person or as the waiving of any right of the City of Stamford under the ordinance herein repealed at the time of passage of this ordinance.

EFFECTIVE DATE

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This ordinance shall take effect upon enactment.

EFFECTIVE DATE: March 25, 1993.
(approved for final adoption March 1, 1993)