

Chapter 28. Ethics

Article I. City Contracts

[Adopted 4-19-1976 (§ 2-3 of the 2007 Code)]

§ 28-1. Standard of conduct relative to City contracts.

No City officer, employee or agent shall solicit or accept any gratuity, favor or anything of monetary value from any contractor or potential contractor with the City relative to the procurement of any supplies, equipment, construction and/or other services with municipal, state and/or federal grant funds, and the offering and/or giving of any such matter of monetary value by such a contractor or its agents to any City officer, employee or agent is hereby prohibited. A violation of the provisions of this section shall subject the offending municipal employee to disciplinary action, including discharge of employment, and in addition thereto all violators shall be subject to the penalty provisions of § 1-8 of the City Code.

Article II. Conflicts of Interest

[Adopted 8-4-1997 (Ch. 2, Art IX, of the 2007 Code)]

§ 28-2. Statement of policy.

- A. This article recognizes that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens; that public office not be used for personal gain; and that the public have confidence in the integrity of its municipal government. The purpose and intent of this article is to promote the objective of protecting the integrity of the government of the City of Westbrook against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.
- B. This article also recognizes, with respect to municipal employment, that problems may arise when an employee works in proximity to his or her relative or a person to whom he or she is closely attached, or when the employee's relative is an elected official, because when such familial bonds exist, there inevitably is the reality or the appearance of improper influence or favor.
- C. This article shall not prevent the Mayor, the City Council, and municipal boards and commissions from adopting additional procedures and employment standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of government

business.

§ 28-3. Definitions.

[Amended 2-9-2004]

As used in this article, the following terms shall have the following meanings:

FINANCIAL INVOLVEMENT

Any existing or current efforts toward achieving ownership or investment interest, contract right, significant customer relationship, or employment relationship with a public official or a person with whom the public official has a personal relationship.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MUNICIPAL BOARD

The Westbrook City Council, Planning Board, Zoning Board of Appeals, Public Safety Commission, and Board of Assessment Review.

PARTICIPATING IN A MATTER

Action by a public official to vote, decide, deliberate, influence or direct others in regard to matters currently before or anticipated as coming before a municipal board or which involve the operation of municipal government, including personnel administration.

PERSONAL RELATIONSHIP

Any family, affectional, or social relationship that is characterized by one or more of the following:

- A. Persons who are husband and wife, or parent and child, or siblings;
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Persons who share a physical intimacy with each other;
- C. Persons who acknowledge an ongoing romantic relationship with each other;
- D. Persons who live together in the same residence;
- E. Persons who intermingle their financial assets without an accounting of separate ownership interests.

PUBLIC OFFICIAL

Any person holding an elected municipal office, any person holding an appointed position on a municipal board, the City Administrator, and the department heads and administrators of municipal departments.

§ 28-4. Conflicts of interest.

- A. Standard of conflict. A public official shall refrain from participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his or her official capacity without self-interest or bias.

- B. Referral. When there is a question as to the existence of a conflict of interest under the standard set forth in Subsection **A**, the matter may be referred to the municipal board for its advisory opinion as follows:
- (1) The Mayor or a City Councilor may refer to the unaffected members of the Council the question of whether he or she has an actual, potential, or reasonably perceived conflict of interest. Similarly, any public official serving on another board, committee, or commission may refer such a question to the other members of that body; or
 - (2) Two or more members of the City Council, municipal committee or commission may refer to the applicable board the question of whether another member of that body, or of a public official who serves under the authority of that body, has an actual, potential or reasonably perceived conflict of interest.
- C. Ethics determination. The municipal board shall determine whether the public official should refrain from participation in a matter because of actual, potential, or reasonably perceived existence of a conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his or her official capacity without self-interest or bias. The opinion rendered shall be advisory only, and such decision by any municipal board, or the lack of action thereon, shall not absolve a public official from the requirements elsewhere set forth by law.

§ 28-5. Incompatible employment positions.

A. Standard of conduct.

(1) Public officials.

- (a) A public official who is a municipal employee shall not hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or a financial involvement unless:

- [1] The relationship is disclosed by the public official to the Mayor; and
- [2] The Mayor approves a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to either of the individuals who have the personal relationship or financial involvement; and
- [3] The Mayor reports to the City Council the existence of the potential incompatibility of employment positions and the establishment of a management plan to address the same.

- (b) Neither shall the Mayor hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or financial involvement, unless:

- [1] The relationship was disclosed to the City Council by the Mayor; and
- [2] The legislative body approves a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to the Mayor.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- (c) Neither shall a City Councilor hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or financial involvement, unless:

- [1] The relationship is disclosed to the Mayor and the City Council; and

- [2] The nonaffected members of the Council approve a management plan that is designed to prevent favoritism or any other influence in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to the City Councilor.

- (2) Existing permanent employees. The employment status of existing full-time municipal employees, as of the date of adoption of this article, shall not be affected thereby, notwithstanding that a relative is an elected official or employee. However, an appropriate management plan may be required where necessary.

- (3) Newly hired employees.

- (a) After the date of adoption of this article, no new candidate for permanent employment shall be hired if there would be created such a conflict; i.e., a relative is already employed or serves as an elected official.

- (b) In the event that a relative is elected to municipal office (Mayor, City Council) after this article is adopted, those department heads and administrative employees that were hired after the initial date of this article will be asked to resign.

- (c) In the event that a relative of a bargaining unit member, who was hired after the date of this article, is later elected to office, that employee's job classification will become fixed; i.e., no promotion or reclassification to a higher position, during the relative's term(s) of office, to the extent consistent with law.

B. Management plan guidelines. When such employment conflicts exist, the City will follow these guidelines in preparing management plans:

- (1) Any direct supervisor-subordinate relationship between relatives shall be avoided.

- (2) Similarly, any indirect supervisor-subordinate relationship between relatives also should be prevented, except with the express approval of the Mayor. In the event that the Mayor is the source of the potential conflict, then such relationship is prohibited except with the express approval of the City Council.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- (3) Any job assignment affecting relatives which may jeopardize the City's or other employees' security is prohibited.

- (4) Any other working relationship between relatives which appears to present a potential or actual morale problem for them or for coworkers must be approved by the Mayor, or if that office is the source of the morale problem, the working relationship must be approved by the City Council.

- (5) To the fullest extent possible, when any of these situations occur, the employee(s) involved will be asked to resolve the conflict by a certain date.

- (6) If the employee is unable to reach a resolution by that time, the options available to the City include:

- (a) Transfer of one or more employees;

- (b) Restructuring a position or a City department; or

(c) Request for resignation of an employee or, if applicable, of a City Councilor or Mayor.