

TOWN OF BERLIN

ETHICS POLICY

Approved by Board of Ethics June 16, 2016

Adopted by Berlin Town Council July 19, 2016

Amended by Berlin Town Council December 18, 2018

Statement of Purpose.

Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and employees affects every citizen of the municipality, and it must be based on honest and fair deliberations and decisions. This process must be free from threats, favoritism, undue influence, and all forms of impropriety so that the confidence of the public is not eroded. By enacting this Policy, the Town of Berlin seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.

Section 1-1. Definitions.

(a) "Board of Ethics" means the commission established by Sections 8 and 9 of the Town of Berlin Charter and described in Section 1-2 of this Policy.

(b) "Business" means any entity through which business for profit or not for profit is conducted including a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.

(c) "Business with which he/she is associated" means any sole proprietorship, partnership, firm, corporation, trust or other entity through which business for profit or not for profit is conducted in which the public employee or public official or member of his immediate family is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock, constituting five percent or more of the total outstanding stock of any class, provided, a public employee or public official, or member of his/her immediate family, shall not be deemed to be associated with a not for profit entity solely by virtue of the fact that the public employee or public 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 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, a matter of public record or public knowledge.

(e) "Conflict of Interest" means an interest which is in substantial conflict with the proper discharge of duties or employment in the public interest and responsibilities as prescribed in Connecticut General Statutes and the laws of the Town of Berlin. A conflict exists when there is reason to believe or expect that the individual, a member of the individual's immediate family or business with which the individual is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of the individual's official activity. No conflict of interest exists if any benefit or detriment accrues to an individual as a member of a business, profession, occupation or group to no greater extent than any other member of such business, profession, occupation.

(f) "Financial interest" means any interest with a monetary value of \$25 or more or which generates a financial gain or loss of \$25 or more per person 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 subdivision (9) or (10) of subsection (b) of section 9-601a of the Connecticut General Statutes;

2) services provided by persons volunteering their time, if provided to aid or promote the success or defeat of any political party, any candidate or candidates for public office or the position of convention delegate or town committee member or any referendum question;

(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, fiancé 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 twenty-five dollars;

(7) a rebate, discount or promotional item available to the general public;

(8) printed or recorded informational material germane to governmental actions or functions;

(9) an honorary degree bestowed upon a public official or public employee by a public or private university or college;

(10) 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;

(11) a meal provided in the home by an individual who resides in the municipality;

(12) a gift, including but not limited to, food or beverage or both, provided by an individual for the celebration of a major life event such as the birth or adoption of a child, a wedding, a Confirmation or bar/bat mitzvah, and a funeral, provided any such gift provided by an individual who is not a member of the family of the recipient shall not exceed two hundred fifty dollars. Major life event shall not include any event which occurs on an annual basis such as an anniversary; except that personal gifts up to twenty-five dollars per occasion, aggregating no more than fifty dollars per recipient in a calendar year, shall be permitted to a minor incident, to a birthday or other traditional gift-giving occasion, e.g., Christmas or Chanukah.

(13) anything of value provided by an employer of (A) a public official, (B) a public employee, or (C) spouse of a public official or public employee, to such official, employee or spouse, provided such benefits are customarily and ordinarily provided to others in similar circumstances;

(14) anything having a value of not more than twenty-five dollars, provided the aggregate value of all things provided by a donor to a recipient under this subdivision in any calendar year shall not exceed twenty-five dollars; or

(15) training that is provided by a vendor for a product purchased by a municipality which is offered to all customers of such vendor.

(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, limited liability company, 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 an individual has reason to believe or expect that he or she or a member of his or her immediate family or business with which he or she is associated will derive a direct monetary gain or suffer a direct monetary loss by reason of his or her official activity.

(n) "Public/Town employee" means a person employed, whether part-time or full-time, by the municipality.

(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 Conn. Gen. Stat. §7-327.

(p) "Special District" means a district established pursuant to Conn. Gen. Stat. §7-324.

(q) "Town" means the Town of Berlin and Berlin Board of Education.

(r) "Trust" means a trust in which any public official or state employee or member of his immediate family has a present or future interest which exceeds ten per cent of the value of the trust or exceeds fifty thousand dollars, whichever is less, but shall not include blind trusts.

Section 1-2. Board of Ethics. Members; appointment; qualifications; vacancies; political activity.

(a) There shall be a Board of Ethics composed of three (3) regular members and two (2) alternate members. The members shall be appointed by the Town Council. The three (3) regular members and two (2) alternate members shall each be appointed for a term of three (3) years. In the month of January, the Town Council shall appoint a member or an alternate member to fill any unexpired term. Any member having served for six (6) years in succession shall be ineligible for reappointment to the Board. For individuals filling a vacancy, successive years of service will commence with the next appointment period.

(b) All members shall be electors of the municipality. No regular or alternate member of the Board shall hold any other elective or appointive town office.

(c) No political party shall have as appointees more than two (2) regular members and one (1) alternate member of the Board of Ethics at one time.

(d) The Board shall elect a chairperson who shall preside at meetings of the Board. If a regular member of the Board is absent or is disqualified, the Chairman or acting Chairman of the Board shall designate an alternate to act in his place, choosing alternates in rotation so that they shall act as nearly equal in number of times possible. If an alternate member is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(e) No member of the Board may represent any business or person, other than himself or herself, before the Board for a period of one year following the end of such member's service on the Board. No business or person that appears before the Board shall employ or otherwise engage the services of a former member of the Board for a period of one year following the end of such former member's service on the Board.

(f) No member of the Board may hold any other position in municipal employment subject to the Board's jurisdiction for a period of one year following the end of such member's service on the Board.

(g) The members and employees of the Board shall adhere to the following code of ethics under which the members and employees shall: (1) Observe high standards of conduct so that the integrity and independence of the Board may be preserved; (2) respect and comply with the law and conduct themselves at all times in a manner which promotes public confidence in the integrity and impartiality of the Board; (3) **be faithful to the law**; (4) be unswayed by partisan interests, public clamor or fear of criticism; (5) maintain order and decorum in proceedings of the Board; (6) be patient, dignified and courteous to all persons who appeal in Board proceedings and with other persons with whom the members and employees deal in their official capacities; (7) refrain from making any statement outside of a Board proceeding, which would have a likelihood of prejudicing a Board proceeding; (8) refrain from making any statement outside of a Board proceeding that a reasonable person would expect to be disseminated by means of public communication if the member or employee should know that such statement would have a likelihood of materially prejudicing or embarrassing a complainant or a respondent; (9) preserve confidences of complainants and respondents; (10) exercise independent professional judgment on behalf of the Board; and (11) represent the Board competently.

Section 1-3. Duties of the Board of Ethics

(a) The primary duty of the Board of Ethics is to administer the requirements of the Code of Ethics set forth in the Town of Berlin Charter as well as this Ethics Policy.

(b) The Board shall: (1) Compile and maintain a record of all reports, advisory opinions, statements, and memoranda filed by and with the Board to facilitate public access to such reports and statements; (2) Issue advisory opinions with regard to the requirements of this policy upon the request of any person. Advisory opinions rendered by the Board until amended or revoked, shall be binding on the Board and shall be deemed to be final decisions of the Board. Any advisory opinion concerning the person who requested the opinion and who acted in reliance thereon, in good faith, shall be an absolute defense in any matter brought under the provisions of this policy; (3) report annually on or before February 1 to the Town Council summarizing the activities of the Board.

Section 1-4. Procedures for Investigation of Complaints

(a)(1) All complaints from any person must be put in writing and given under oath to the Berlin Town Clerk. The Town Clerk shall forward such complaint to the Chairman of the Board of Ethics within five (5) business days of receipt. Upon the receipt of a complaint, the Chairman of the Board shall call a Board meeting within fourteen (14) days to determine whether there is probable cause to proceed to a hearing. If the Board determines that there is no probable cause, the matter will be dismissed. However, should the Board determine that probable cause exists; the Chairman shall call a hearing for the complainant to present evidence of the violation of the Board within fourteen (14) days of the probable cause determination and will also notify the person whose conduct is called into question of such hearing by registered or certified mail. The complainant must testify in person and under oath in front of the Board. Following the testimony, the person whose conduct is called into question may request a reasonable continuance to bring rebuttal witnesses and evidence at the continued hearing. (2) After the hearing, if the Board finds that no provisions of Chapter 9 of the Town Charter or this policy have been violated by the person charged, the Board shall dismiss all complaints and shall notify the person so charged and the complainant of its action. (3) If the Board determines that the complaint alleges sufficient acts to constitute a violation of Chapter 9 of the Town Charter and/or this policy, the Board shall notify the Town Manager, who, with Council approval, shall take such appropriate action as deemed necessary, including censure, suspension, termination of employment or legal action. Any person so aggrieved by the action of the Manager and the Council may take an appeal to the appropriate court as provided by the Connecticut General Statutes.

(b)(1) In the conduct of its investigation of an alleged violation of this code, the Board shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production for examination by the commission of any books, papers and electronic records which the Board deems relevant in any matter under investigation or in question. In the exercise of such powers, the Board may use the services of the Berlin Police Department, who shall provide the same upon the Board's request. (2) The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses.

(c) The Board shall make no finding that there is a violation of any provision of the code except upon the concurring vote of at least two (2) of its members.

(d) Any hearing conducted by the Board shall be guided by the administrative rules of evidence as defined in Connecticut General Statutes Section 4-178.

(e) No complaint may be made under this policy except within the next two years after the violation alleged in the complaint has been committed.

(f) No person shall take or threaten to take official action against an individual for such individual's disclosure of information to the Board under the provisions of this policy. After receipt of information from an individual, the Board shall not disclose the identity of such individual without consent until such time as that individual appears before the Board at a public meeting.

Section 1-5. Confidentiality of complaints, evaluations of possible violations and investigations. Publication of findings.

(a) Unless the Board makes a finding of a violation, a complaint alleging a violation shall be confidential except upon the request of the respondent or where otherwise prohibited by the Freedom of Information Act.

(b) An investigation and deliberations conducted upon filing of a complaint and prior to a finding of a violation shall be confidential except upon the request of the respondent or as otherwise prohibited by the Freedom of Information Act. If such investigation is confidential, any allegations that are the basis of 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 Board or staff member unless required by the Freedom of Information Act.

(c) If the Board makes a finding of no violation, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent or where prohibited by the Freedom of Information Act. No complainant, respondent, witness, designated party, or Board 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. The Board shall inform the complainant and the respondent of its finding by registered or certified mail not later than three (3) business days after termination of the hearing or investigation.

(d) The Board shall make public a finding of a violation within a reasonable time after the termination of the hearing. At such time, the entire record of the investigation shall become public. The Board shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making such a finding by registered or certified mail not later than three (3) business days after termination of the hearing.

(e) Any respondent aggrieved by a decision of the Board regarding a finding of a violation may, within thirty (30) days, take an appeal to the superior court for the judicial district in which the municipality is located as provided by Connecticut General Statutes.

Section 1-6. Penalties.

(a) Violation of any provision of this policy or the Town Charter shall constitute grounds for removal or dismissal from office or position, and may be punished by (1) public censure and reprimand; (2) a civil

penalty of not more than one thousand (\$1,000) per violation; and (3) restitution of any pecuniary benefits received because of the violations committed.

Section 1-7. Conflicts of interest. Standards of Conduct.

(a) No Town of Berlin employee or public official shall engage in or participate in any business or transaction or contract, including outside employment with a private business, or have an interest, direct or indirect, which is incompatible with the proper discharge of his/her official responsibilities in the public interest or which would tend to impair his/her independent judgment or action in the performance of his/her official responsibilities. Generally, an action is defined to be incompatible with the proper discharge of duties when the individual in question has reason to believe or expect that he/she or a member of his/her immediate family will derive direct monetary gain or suffer a direct monetary loss by reason of his/her official activity. Any employee or official who has a substantial or controlling financial or significant personal 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 writing filed with the Town Clerk such interest in any matter on which he or she may be called to act in his/her official capacity.

(b)(1) No Town of Berlin employee or public official shall solicit or accept any gift over the sum of twenty-five (\$25.00) whether in the form of service, loan, object or promise from any person who to his knowledge is interested in any pending matter within such individual's official responsibility. (2) If a prohibited gift is offered, he must refuse it, return it, pay the donor the market value of the gift, or donate it to a non-profit organization (provided he does not take a tax write-off). Alternately, it may be considered a gift to the municipality provided it remains in the municipality's possession permanently and is properly accepted by the Town Council.

(c)(1) A Town employee or public official shall refrain from voting upon otherwise participating in any matter on behalf of the municipality if he/she, has a conflict of interest as defined in Section 1-1(e) of this policy. (2) If such participation is within the scope of the Town employee's or public official's responsibility, he/she shall be required to provide written disclosure, which sets forth in detail the nature and extent of such interest, to the Town Clerk. (3) Notwithstanding the prohibition in subsection (c)(1), a Town employee or public official may vote or otherwise participate in a matter if it involves a determination of general policy and the interest is shared with a substantial segment of the population of the Town.

(d)(1) Except for a public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursement of expenses, no Town employee or public official shall appear on behalf of private interests before any board agency, or commission of the Town. (2) Except for a public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursement of expenses, no Town employee or public official shall represent private interests against the interest of the Town in any litigation to which the Town is a party.

(e) Nothing contained in this policy shall prohibit or restrict a Town employee or public official from appearing before any board or commission of the municipality of his/her own behalf, or from being a party in any action, proceeding or litigation.

(f) No Town employee or public official, without proper legal authorization, shall disclose confidential information concerning municipal affairs (except as required under the State of Connecticut Freedom of

Information Act), nor shall he/she use such information for the financial interests of himself/herself or others.

(g) No Town employee or public official shall request or permit the use of municipal-owned vehicles, equipment, facilities, materials or property for personal convenience or profit, except when such are available to the public generally or are provided as municipal policy for the use of such Town employee or public official in the conduct of official business or such use in connection with exchange of private equipment for use by the Town, as certified by the appropriate lending agency to the Town Manager. No Town employee or public official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(h) No Town employee or public official, or a business with which he/she is associated, or member of his/her immediate family shall enter into a contract with the Town unless it is awarded through a process of public notice and competitive bidding in accordance with Section 5-5 of the Town Charter.

(i) No Town employee or public official shall use his/her position or officer for the financial benefit of himself/herself, a business with which he/she is associated, an individual with which he/she is associated, or a member of his/her immediate family.

(j) No Town employee or public official shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in his/her official capacity.

(k) No Town employee or public official, or member of such individual's immediate family or business with which he/she is associated, shall solicit or accept anything of value, including but not limited to, a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the Town employee or public official would be or had been influenced thereby. To the extent that they know thereof, all officials and employees of the Town, whether paid or unpaid, who participate in the discussion or give official opinions to the Council, or any Board or Commission, on pending legislation, shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interests he/she has in such legislation.

(l) No person shall offer or give to a Town employee or public official or member of such individual's immediate family or business with which he is associated, anything of value, including, but not limited to, a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the Town employee or public official would be or had been influenced thereby.

(m)(1) No Town employee or public official or member of the immediate family of a Town employee or public official shall knowingly accept, directly or indirectly, any gift costing one hundred dollars or more in any calendar year from a Town employee or public official who is under the supervision of such Town employee or public official. (2) No Town employee or public official or member of the immediate family of a public employee or public official shall knowingly accept, directly or indirectly, any gift costing one hundred dollars (\$100) or more in any calendar year from a Town employee or public official who is a supervisor of such Town employee or public official. (3) No public employee or public official shall knowingly give, directly or indirectly, any gift in violation of subdivision (1) or (2) of this subsection.

(n) No Town employee, vendor or public official shall knowingly counsel, authorize or otherwise sanction action that violates any provision of this code.

Section 1-8. Paid consultants/vendors of the municipality.

(a)(1) No paid consultant or vendor of the Town shall represent a private interest in any action or proceeding against the interest of the Town which is in conflict with the performance of his/her duties as a consultant/vendor. (2) No paid consultant/vendor may represent anyone other than the municipality concerning any matter in which he/she participated personally and substantially as a consultant to the municipality. (3) No paid consultant/vendor shall disclose confidential information learned while performing his/her duties for the municipality nor shall he/she use such information for the financial interests of himself/herself or others.

Section 1-9. Former public employees/officials.

(a) No former Town employee or public official shall appear for compensation before any municipal board or agency in which he/she was formerly employed at any time within a period of one year after termination of his/her service with the municipality.

(b) No former Town employee or public official shall represent anyone other than the municipality concerning any particular matter in which he/she participated personally and substantially while in municipal service.

(c) No former Town employee or public official shall disclose or use confidential information acquired in the course of and by reason of his/her official duties, for financial gain for himself/herself or others.

(d) No former Town employee or public official who participated substantially in the negotiation or award of a municipal contract obliging the municipality to pay an amount of twenty-five thousand (\$25,000) or more, or who supervised the negotiation or award of such contract shall accept employment with a party to the contract other than the municipality for a period of one year (1) after such contract is signed.

Section 1-10. Statements of financial interests. Filing requirements.

(a)(1) All elected officials, department heads and other management level employees who have purchasing authority, the Revenue Collector, Assessor, Purchasing Agent, members of the board of assessment appeals and board of ethics, corporation counsel and any other Town employees as the Town Manager shall designate (subject to the applicability of any collective bargaining agreement), shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the Town Clerk within thirty (30) days of taking office or the date of appointment and on an annual basis thereafter on or before December first (1st) next in any year in which he/she holds such a position or office. Any such individual who leaves his office or position shall file a statement of financial interests covering that portion of the year during which he/she held an office or position. The Town Clerk shall notify such individuals of the requirements of this subsection within thirty (30) days after their departure from such office or position. Such individuals shall file such statement within sixty (60) days after receipt of the notification.

(b) The statement of financial interests shall include the following information for the preceding calendar year in regard to the individual required to file the statement and his/her spouse and dependent children residing in the individual's household: (1) Real estate located within the Town of

Berlin, excluding the place of principal residence, which is owned or leased for a period exceeding two (2) years by such official, employee, spouse or dependent including any corporation or trust or partnership where such person has at least five (5) percent of a legal or equitable interest; (2) the names of any employer from which the official, employee, spouse or dependent is paid an annual income of at least ten thousand dollars (\$10,000) and the name of any business entity owned by the official, employee, spouse or dependent, including any corporation, trust or partnership, where either the official, employee, spouse or dependent has at least five (5) percent of a legal or equitable interest; (3) the name of any business entity identified under subsection (2) of this section which had a contract with the Town of Berlin the preceding calendar year to provide either goods or services in the aggregate amount of at least ten thousand dollars (\$10,000); and (4) a certification that each official or employee has read and understands the Town of Berlin Ethics Policy.

(c) It shall be the responsibility of the Town Clerk to mail the Statement of Financial Interests to all persons holding public offices specified and to provide a copy to Human Resources to provide to all new employees. The statement of financial interests filed pursuant to this section shall be a matter of public information (subject to any limitations allowed in the Freedom of Information Act.)

(d) Any individual who is unable to provide information required under the provisions of subsection (b) of this section by reason of impossibility may petition the Board for a waiver of the requirements. If the requirements are not waived, any person who fails to comply with the provisions of Section 1-10 of this policy shall be notified by the Town Clerk; the Town Clerk shall also notify the employee's supervisor or the chairman of the commission as applicable of the individual's noncompliance. If the individual continues not to comply with the requirements within thirty (30) days after this second notice, then the individual will be called to come before the Board of Ethics to address the noncompliance. Failure to disclose the information required by Section 1-10 of this policy with respect to an individual's spouse or dependent does not constitute a violation if the individual making the disclosure has made a good faith effort to obtain the information which he/she then documents in said disclosure statement.

Section 1-11. Distribution of policy.

The Town Manager shall cause a copy of this policy and any other policy approved by the Town Council to be distributed to every Town employee except for employees of the Police Department, to include all officers, dispatchers and staff, who do not have purchasing authority (given that these employees are subject to separate ethics policies reasonably equivalent to or exceeding the requirements of this Policy) and public official within sixty (60) days after enactment of such policy. Each Town employee and public official shall be furnished a copy upon commencing the duties of his/her office of employment. A signed receipt for all copies shall be returned to the Town Clerk and retained on file (refer to Exhibit A). Annually, all employees are required to re-affirm in writing that they have received and are following the policy. The policy will also be placed on the Town's website and a reference to the link will be included in all Requests for Proposal ("RFP") and Requests for Qualifications ("RFQ"). It shall be a requirement that all respondents to a Town RFP or RFQ included a signed acknowledgement that they have received and will follow the policy (refer to Exhibit B).

Amended 2018-12-18 by Town Council to exempt employees of the Police Department