

**ORDINANCE NUMBER _____ SUPPLEMENTAL
AMENDING CHAPTER 19 CODE OF ETHICS, SECTION 19-14**

WHEREAS, the present Stamford Code of Ethics was adopted March 1, 1993 as Ordinance 706 and amended on November 1, 1994 by Ordinance 738, on November 14, 2005 by Ordinance 1049, and on September 5, 2006 by Ordinance 1059; and

WHEREAS, on June 1, 2011, the Board of Representatives received a letter from the Stamford Board of Ethics recommending various changes to the Code of Ethics; and

WHEREAS, in lights of such recommendations, the Board of Representatives undertook a review of the Code of Ethics; and

WHEREAS, the Stamford Code of Ethics was amended on July 9, 2012 by Ordinance 1145 and on February 4, 2013 by Ordinance 1155; and

WHEREAS, the Stamford Code of Ethics provides in §19-14 that the Board of Ethics consists of five members and four alternates, each serving five year terms; and

WHEREAS, at the regular election held on November 6, 2012, the electors approved adding a provision for a Board of Ethics to the Stamford Charter, which provision is included in Charter §C6-210-1 et seq., requiring, among other things, that the members and alternate members of the Board of Ethics serve three-year terms; and

WHEREAS, at the regular election held on November 5, 2013, the electors approved amending Charter §C6-210-2, to require the Board of Ethics to consist of not fewer than five (5) full members and two (2) alternates; and

WHEREAS, it is in the best interest of the City of Stamford that provisions in the Code of Ethics regarding the terms of the members and alternate members of the Board of Ethics be amended to be consistent with the Charter; and

WHEREAS, it is in the best interest of the City of Stamford that provisions in the Code of Ethics regarding the number of the members and alternate members of the Board of Ethics be modified.

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

Section 19-14 of the Stamford Charter and Code of Ordinances be amended as follows:

Sec. 19-14. - Board of Ethics.

A. Appointment of members and alternates.

(1) The Board of Ethics shall consist of ~~five (5)~~seven(7) members, no more than ~~three (3)~~four (4) of whom shall be registered with any one political party, and ~~four (4)~~two (2)

alternates ~~no more than two~~ neither of whom shall be registered with the same political party.

(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 of two-thirds (2/3) of the members of the Board of Representatives present and voting. No nominee for appointment by the Mayor to be a Board member or alternate Board member shall have been an officer in a political party, a candidate for any office within the City of Stamford, or a chair of a campaign of a candidate for any office within the City of Stamford, for the period of one year prior to such nomination. Upon appointment by the Mayor, all Board members and alternate Board members shall continue to refrain from such activity throughout their terms on the Board.

(3) All members and alternates shall serve without compensation for a term of ~~five (5)~~ three (3) years, which shall expire on ~~June 30~~ December 1 of the final year of a member's term, subject to continuance in office for a period not to exceed the lesser of six (6) months or until his or her successor has been nominated by the Mayor and approved by the Board of Representatives. No member may serve for more than three (3) consecutive terms, except that those members who are currently serving on the Board of Ethics may serve for an additional term beyond their present term.

(4) In order to preserve continuity on the Board, the first terms of the ~~four (4)~~ two (2) alternates shall be staggered so that ~~two (2)~~ one (1) of the alternates serves a term of ~~three (3)~~ two (2) years and the other ~~two (2)~~ shall serve for ~~five (5)~~ three (3) years. Upon the expiration of the original terms, all alternates shall then serve ~~five (5)~~ three (3) year terms as stated in § 19-14A ~~(2)~~ (3) above.

(5) 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 alternate's term, provided that, in no event shall a member or alternate's term extend more than six months beyond the expiration of such term.

(6) Alternates shall be considered working members of the Board, and, at the discretion of the Chairperson, they may ask questions and otherwise participate in the 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 (3)~~ Four (4) 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. Opinions and advice.

(1) Advisory opinions.

(a) The Board shall render advisory opinions pursuant to:

1. a written request from any officer or employee concerning his or her

behavior with respect to this Code of Ethics; or

2. a written request concerning any officer or employee or any group of officers or employees, made by the Mayor, Corporation Counsel, President of the Board of Representatives, any six (6) members of the Board of Representatives, Town and City Clerk, a majority of the Board of Finance or a majority of the Board of Education; or

3. a written request concerning any member, alternate, employee or any group of members, alternates, or employees of any board or commission, made by the President, Chairperson or one-third (1/3) of the membership, including alternates, of any such board or commission; or

4. a written request concerning any supervised employee or employees, made by an officer or employee with supervisory authority over such employee.

(b) The Board may, by a majority vote of the entire Board, decline to consider any request or may expand the scope of the opinion to include other officers, board or commission members or alternates, or employees not specifically named in the request or to exclude any officer(s), member(s), alternate(s) or employee(s) named in the request.

(c) An advisory opinion shall only be issued when all hearings concerning the request are held in open public meeting. Such advisory opinion shall be binding on the Board, the officer(s), board or commission member(s) or alternate(s), or employee(s) until amended or revoked, and reliance on it in good faith shall be an absolute defense in any action or proceedings brought under the provisions of this Code of Ethics.

(d) Within one hundred (100) days of valid receipt of the request, the Board shall render its opinion, or act not to consider such request, and shall file such opinion or action with the office of the Town and City Clerk.

(e) The Board of Ethics may amend or revoke any advisory opinion. Written notification of such amendment or revocation shall be made to the Mayor, Corporation Counsel, President of the Board of Representatives, and Town and City Clerk within thirty (30) days of such amendment or revocation.

(2) Personal advice. Upon the written request from any officer or employee to obtain personal advice for that individual with respect to potential future official actions and this Code of Ethics, and a request that such advice or hearings be kept confidential, the Chairperson of the Board may request that one (1) member hear any such request and offer advice with respect to this Code of Ethics pursuant to that specific request. Said board member may offer such advice without holding open public hearings concerning the request, and, provided that the employee or officer appears to be acting in good faith and that no crime has been or will be committed, shall maintain any requested confidentiality, but only to the extent permitted by law and unless compelled by legal process. Such advice shall not be binding on the officer or employee, or the Board of Ethics. Reliance on such advice shall not be a defense in any action or proceedings brought under the

provisions of this Code of Ethics, although the Board may consider such advice in any such proceedings. The member so appointed for the purpose of giving such advice shall recuse himself or herself from any and all future action concerning the said officer or employee, including, but not limited to, ethics complaints or requests for advisory opinions on the issue or issues involved in the specific request.

D. Ethics complaints, investigation and procedures.

(1) Filing of the complaint, notification and amendment.

(a) Any person may submit a written complaint, on a form prescribed by the Board of Ethics and signed under penalty of false statement, alleging a violation of this Code of Ethics by an officer or employee or a person who was an officer or employee within the preceding year. The complaint shall contain the specific act or acts which allegedly constitute the violation.

(b) Upon receipt of said complaint by the Chairperson, or by the Secretary of the Board in the Chairperson's absence, the Chairperson of the Board of Ethics shall select, on a rotating basis, as practical, three (3) members from among the regular and alternate Board members, to be the three (3) Investigating Board members, as defined above. If a complaint is brought against a Board member, the member may not participate in any proceedings until that complaint is resolved. The Investigating Board members may delete, defer or reject any part of a complaint that does not conform to its requirements. No member or alternate member of the Board of Ethics may initiate a complaint.

(c) 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.

(d) Subsequent to the filing of the original complaint, the Investigating Board members may, at their discretion, amend any complaint filed with the Board to include other violations which they reasonably suspect 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 by personal service by a sheriff, constable or indifferent person to the respondent and complainant within seven (7) days of such amendment.

(2) Investigation of probable cause.

(a) The Investigating Board members shall investigate the complaint and such amendments as they may have added. For this purpose, hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics.

(b) Any investigation and hearing, if held, 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 filing a complaint with the Board of Ethics, the complainant shall be bound by the requirement of confidentiality in the investigative phase. A violation of the requirement of confidentiality by the complainant, whether direct or indirect, shall be grounds, at the discretion of the Board of Ethics, to dismiss the complaint. Pending the outcome of the probable cause hearing, no member of the Board of Ethics shall disclose his or her knowledge of such investigation to a third party, except to the extent necessary to conduct their investigation. 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.

(3) Finding of probable cause.

(a) A decision regarding probable cause shall be made by the Investigating Board members within sixty (60) days after the date that the Board received the complaint. A finding that probable cause to believe that the respondent has violated the Code of Ethics exists shall require two (2) concurring votes.

(b) If the Investigating Board members determine that probable cause that the respondent has violated the Code of Ethics does not exist, they shall dismiss the complaint.

(c) If the Investigating Board members determine that probable cause that the respondent has violated the Code of Ethics does exist, they shall submit a written report to the Chairperson of the Board of Ethics to initiate public hearings, unless they and the respondent reach a stipulated agreement to resolve the complaint. Once probable cause has been determined, any such stipulated agreement shall require the approval of a majority of the non-Investigating Board members. Notwithstanding the foregoing, in the event an agreement is stipulated to or a withdrawal of the complaint is filed prior to a determination of probable cause, approval by a majority of the non-Investigating Board members shall not be required. If no stipulated agreement is reached, public hearings shall commence within thirty (30) days of receipt by the Chairperson of the aforesaid written report.

(d) In any public hearing held to determine a violation of the Code of Ethics, the Investigating Board members with the assistance of the Office of Legal Affairs or other counsel, shall have the responsibility of gathering and presenting evidence, together with the complainant, to the Hearing Board members. If necessary, outside counsel should be retained to represent the Hearing Board with respect to any public hearings, assuming the Office of Legal Affairs will be unable to do so because of its prior and/or continuing representation of the Investigating Board. The Investigating Board members shall not participate in any manner in the vote to determine a violation of the Code of Ethics.

(e) The complainant and respondent shall be notified in writing of the decision regarding probable cause 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.

(4) Extension of time. Upon extraordinary circumstances, reasonable extensions of time

to any of the time limitations specified herein may be granted by the Board upon a vote of four (4) sitting members.

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

(b) 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.

(5) Rules and procedure for public hearings.

(a) 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 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.

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 Subsection C(4)(a) above, by resolution adopted by 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 thirty (30) 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 is 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.

(6) Finding of a violation of the Code of Ethics.

(a) A finding of a violation of the Code of Ethics shall require the affirmative vote of two (2) of the three (3) Hearing Board members that there is clear and convincing evidence that the respondent has violated the Code of Ethics.

(b) The written final decision shall specify the code section violated and a factual explanation supporting each violation and shall be on the form prescribed.

(c) The Board shall file its memorandum of decision with the Mayor, Town and City Clerk, Corporation Counsel, Clerk of the Board of Representatives and any other public office it deems appropriate or is required under § 19-15C of this chapter.

E. Other powers and responsibilities.

(1) 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 chapter, the Board of Ethics shall follow the requirements of the Connecticut Freedom of Information Act.

(2) Annual Advisory Report. On or before June 1 of 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; and

(b) Recommendations for improvements in the Municipal Code of Ethics.