

City of Norwich



Ethics Commission Rules and Procedure Manual

Adopted February 8, 2010

Amended March 5, 2012

INTRODUCTION

On August 3, 2009 the Norwich City Council adopted Ordinance 1625 which established an Ethics Commission to be comprised of 5 members and 2 alternates appointed by the Council for 2-year terms. The ordinance established standards for ethical conduct of public officials, officers, and employees of the City of Norwich. The Ethics Commission, an appointed body of citizens, was tasked with administering the Code of Ethics and creating the rules and procedures needed to do so.

The Ethics Commission is responsible for: (1) advising public officials, officers and employees of the City who seek guidance about ethical issues connected with their service to the City; (2) evaluating ethical issues and concerns initiated by complaint; and (3) rendering decisions regarding compliance with the code.

These procedures are designed to guide the Ethics Commission as well as public officials, officers, employees and citizens of the process and procedures to be followed in application of the Code of Ethics to operations affiliated with City government.

Section 1. (Advisory Opinions) describes a process for City officers, officials and employees of the City who are seeking advice about their own conduct or the conduct of a City office or function.

Section 2. (Complaints) describes a formal procedure whereby the Ethics Commission investigates an alleged violation of the Code timely and properly brought to its attention.

Section 3. (Public Hearings) describes the procedure whereby the Ethics Commission, after determining that probable cause exists to believe that a violation of the Code of Ethics has occurred, will conduct a public hearing to determine whether or not a violation of the Code of Ethics has occurred and to make recommendations as may be called for under the Code.

Definitions and Miscellaneous

1. As used in this Rules and Procedure Manual, the word “Code” means the Code of Ethics for the City of Norwich.
2. As used in the Rules and Procedure Manual, “probable cause” means determining whether the facts and circumstances would warrant a reasonable person to believe that a town official, officer, or employee violated this code; the belief should be more than a mere suspicion.
3. As used in the Rules and Procedure manual, “Commission” means the City of Norwich Ethics Commission.
4. Any proceeding undertaken by the Commission to render an advisory opinion or investigate a possible violation of the Code of Ethics will be governed by the Code and these Rules and Procedures. If there is a conflict between these Rules and Procedures and the Code, the Code of Ethics will govern.
5. Role of Alternates. All members of the Commission, both regular and alternate, may participate in regular or special meeting discussion however alternates may not make motions or vote. In the event a regular member is absent, the Chair or Vice-Chair will seat an alternate alphabetically and rotate between alternates whenever possible. Alternate members, when seated, shall have all the powers and duties of regular members.
6. In order to reinforce public confidence in the integrity of this process, we adopt the following guidelines on conflict of interest and recusal of Ethics Commission members:

Conflicts of Interest and Recusal for Ethics Commissioners

What is Interest?

A direct or indirect pecuniary benefit or personal relationship which may accrue a benefit or favourable action to a Commissioner as a result of a decision by the Ethics Commission. For the purposes of this rule a Commissioner shall be deemed to have an interest in the affairs of:

- (1) Any person in his or her immediate family or the spouse of a person in his or her immediate family.
- (2) Any person or business entity with whom a contractual relationship exists with the Commissioner.
- (3) Any business entity or organization in which the Commissioner is an Officer, Director, Member, Employee, or Stockholder.

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What is a “Conflict” or “Potential Conflict” of Interest?

A conflict or a potential conflict of interest exists if a Commissioner in the discharge of his or her duties, would be required to take action that would affect his or her financial or personal interest, or the interest of his or her spouse, parent, brother, sister, child, or a business or organization with which the Commissioner is associated.

Disclosure of Interest:

Any Commissioner who has an interest in any matter concerning the Ethics Commission shall disclose the true nature and extent of such interest. The Commissioner shall recuse him or herself from participating in such matter, if such interest is considered substantial.

Considerations in determining whether the interest is not so substantial as to be deemed likely to affect the integrity of the services that the City of Norwich may expect from the Ethics Commissioner include:

- (1) The extent to which the Commissioner’s exercise of authority and responsibility can affect his interest.
- (2) The relative importance of the interest in the Commissioner’s life or finances
- (3) The potential for harm to the City of Norwich and to the Commissioner if the Commissioner’s interests influence his decision making.
- (4) How the situation would appear to an informed public
- (5) The nature of the relationship between the Commissioner and the individual who has the interest concerned.

If a Commissioner believes that despite a substantial conflict the Commissioner is able to vote and otherwise participate objectively, in the public interest the Commissioner may request a decision from the other members of the Ethics Commission. A vote shall be taken and if a minimum of 4 members vote that the interest is not so substantial as to affect the outcome of the particular matter before the Ethics Commission, the Commissioner may continue to participate in adjudicating the matter. Such a vote should only be undertaken if a Commissioner’s recusal would pose undue hardship on the good working order of the Ethics Commission.

All Conflicts of Interest, Disclosures, Recusals, and Votes shall be recorded in the Minutes of the Meeting, unless such would violate the confidentiality of a respondent, in which case the name of the respondent may be redacted from the minutes.

NOTICE

These Rules and Procedures are subject to change. They will apply to any Commission proceedings or to any request or complaint received by the Commission in the form in effect at that time. Those wishing to initiate action are asked to refer to the City of Norwich website at www.norwichct.org to obtain the latest publications and forms for this purpose.

SECTION I ADVISORY OPINIONS

1. Initiation of Advisory Process

- a. Any employee, officer or official for the City of Norwich may request an advisory opinion from the Ethics Commission as to the application of any provision of the Code of Ethics to a particular situation or as to an interpretation of any such provision.
- b. Individuals initiating a request for an advisory opinion must do so by completing a form available through the Norwich City Clerk's office or through the City's website: www.norwichct.org. The form must contain a statement clearly stating the advice requested and all the relevant facts known to the individual making the request so the Commission can reasonably understand the nature of the request. The individual making the request must sign and date the request.
- c. Requests must be addressed to:
Chairman of the Ethics Commission
c/o Norwich City Clerk
100 Broadway
Norwich, CT 06360
The City Clerk will forward the request to the Chairman of the Commission who will then present it to the Ethics Commission for consideration.
- d. The date a request is presented to the full Ethics Commission by the Chairman of the Commission will mark the official date of receipt for purposes of deadlines for advisory decisions. The Commission will act on a written request within sixty (60) days of receipt which could include an affirmative vote to decline ruling on the matter. The City Clerk shall maintain a file of advisory opinions and no advisory opinion shall contain the names or the positions of the persons involved.
- e. The City Clerk will maintain each request for an advisory opinion in a confidential, indexed file until the request has been reviewed by the Commission to determine that it does not contain any allegation of a Code of Ethics violation which would subject it to confidentiality requirements.
- f. Upon finding that no violation exists, the file will be made available to the public. The Commission Chairman will apprise the City Clerk in writing which files should and should not be made available to the public.

2. Procedure

- a. The Chairman will present the request to the Commission at the next regularly scheduled meeting of the Commission if no agenda has yet been filed with the City Clerk. If the meeting agenda for the next regularly scheduled meeting has already been filed with the City Clerk, the Chairman may either call a special

meeting to present the advisory opinion request or present the advisory opinion request at the next regularly scheduled meeting. In any case, the individual submitting the advisory opinion request will be informed when the request will be formally accepted by the Ethics Commission for consideration and review.

- b. The Commission will meet to review the request. At that time, it may decide to: (1) seek additional information; (2) create a subcommittee of at least two Commission members to make a recommendation for consideration by the full Commission; (3) hold an informal hearing to receive comments from the individual who requested the opinion; (4) investigate the relevant facts and issues in order to render the opinion or (5) treat the matter as a *Complaint* under Section Two. At this meeting, the individual shall be provided with an opportunity to present his or her interpretation of the facts and applicable provisions of the Code of Ethics. If the Commission decides to request additional information then it shall meet to decide its future course of action within fifteen (15) days of the receipt of such information.

3. Decisions

- a. Final advisory opinions will be rendered by the affirmative vote of three (3) sitting members of the Commission.
- b. The Commission will issue an advisory opinion as expeditiously as possible but in any event, within sixty (60) calendar days from the meeting where the advisory request and all relevant material had been received and discussed.
- c. All advisory opinions must be in writing and sent to the individual making the request in addition to being filed with the City Clerk.
- d. The Commission may decline to render an advisory opinion if: (1) the subject matter is not covered by the Code of Ethics; (2) the known facts are incomplete or incorrect and the omissions or misstatements are material to the opinion requested; (3) other reasonable grounds exist for not taking action. If the Commission decides to decline an opinion, it shall state its reasons in writing.
- e. In the event the commission fails to achieve a majority vote for any proposal, such failure shall be construed as an affirmative vote to decline ruling on the matter.
- f. Advisory opinions rendered by the Commission, until amended or revoked, shall be binding on the commission and shall be deemed to be final decisions of the Commission.
- g. Any person who acts on an opinion received by him or her from the Commission shall not be held to have violated the Ethics Code providing the person acted in good faith upon that opinion, and it shall be an absolute defense in the matter brought under the provisions of this Code.

4. Confidentiality

- a. Requests for advisory opinions will be reviewed in open session unless it is determined that the matter would be more appropriately treated as a complaint under Section Two of this Rules and Procedures Manual.
- b. Once the advisory opinion has been rendered, it shall be filed with the Norwich City Clerk in writing and sent to the individual making the request. No advisory opinions shall contain the names of the positions or the persons involved.

SECTION II COMPLAINTS

1. Initiation of Complaint Process

- a. Any person may make a complaint that will result in the Commission investigating the alleged violation of the Code to determine whether or not there is probable cause to believe that a violation has occurred.
- b. The Commission may itself initiate a complaint regarding a possible violation of the Code. A majority vote of the Ethics Commission on an alleged violation of the Code is required to result in an investigation. An affirmative vote of three (3) members of the Ethics Commission is required to initiate an investigation on such a possible violation of the Code.
- c. Individuals initiating a complaint must do so in writing by completing a form available through the Norwich City Clerk's office or through the City's website at: www.norwichct.org. Any complaint received by the Commission must be signed under penalty of false statement. A person shall be in violation of this section if the person submits a complaint containing a written statement that he or she does not believe to be true.
- d. The complaint must contain a description of the relevant facts in sufficient detail so that the Commission and any person who is subject of the complaint can reasonably be expected to understand the nature of the allegations. The complaint form requires that the complainant acknowledges that the complaint and its contents are confidential unless and until the Commission makes a finding of probable cause or the subject of the complaint requests that it be made public.
Complaints must be mailed to:
Chairman of the Ethics Commission
c/o Norwich City Clerk
100 Broadway
Norwich, CT 06360
- e. The City Clerk will maintain all original complaints in a confidential indexed file.
- f. The date a complaint is received by the Chairman of the Commission will mark the official date of receipt for purposes of deadlines and decisions.
- g. No complaint may be received by the commission more than eighteen (18) months after the date of the action complained of. In the case where the person to be named as the respondent has fraudulently concealed the existence of the action, the time limitation (18 months) shall run from the date the complainant first had actual or constructive notice of the action.

2. Notice and Response

- a. Upon receiving a complaint of an alleged violation of the Code of Ethics, the Commission shall, within five (5) business days, notify in writing the person(s) about whom said complaint(s) has been filed, advising the concerned person(s) of the specific nature of the complaint made and being investigated by the Commission and enclosing therewith a copy of the complaint. The Commission will also notify the complainant in writing that the complaint was received by the Commission.
- b. The respondent(s) may file a written response with the Chairman or request a hearing within fifteen (15) business days after receiving the notice.

3. Proceedings

- a. The Chairman will present the complaint and any response received from the respondent(s) to the Commission, in executive session, at its next regular meeting held after receipt of the complaint, the mailing of notice to the accused and the passage of at least fifteen (15) days. If however, the agenda for such meeting has already been posted with the City Clerk, the Chairman will present the complaint and any response to the Commission at its next following regular meeting.
- b. The Chairman may also call a special meeting to consider the complaint after the passage of such fifteen (15) day period.
- c. The Commission will meet at least once in executive session to review the complaint and to discuss whether or not there exists probable cause that the Code has been violated. Following the executive session, it may decide to: (1) seek additional information; (2) create a subcommittee of at least three (3) members of the Commission, of which one (1) may be an alternate, to investigate the relevant facts and issues in order to make a recommendation for consideration by the entire Commission; (3) decline to review the matter further pursuant to these procedures; (4) make a finding of probable cause; (5) make a finding of no probable cause.
- d. Following the executive session if the Commission proceeds under steps (1), or (2) in Section II, 3(c), it will establish a schedule of meetings for consideration of the complaint.
- e. A finding of probable cause means that based on a review of the available information the Commission determines that reasonable grounds exist to believe that a violation of the Code occurred.
- f. The Commission may decline to continue to review a matter for any of these reasons:
 - i. The alleged facts do not establish the existence of probable cause of a violation of the Code.
 - ii. The person who is the subject of the complaint is no longer an official, officer or employee of the City.

- iii. The alleged violation occurred outside of the time limitations imposed by the Ethics Code.
 - iv. The alleged violation is judged to be frivolous, groundless or brought for the purpose of harassment.
 - v. The Commission has already taken action on the matter.
 - vi. There are other reasonable grounds for not taking action.
- g. The Commission shall notify the complainant and the respondent of its findings, providing a summary of its findings within three (3) business days of its decision to decline to review the complaint for any of the reasons in Section 3(f).
4. Decisions
- a. No finding of the existence of probable cause may be made except upon the affirmative vote of at least three (3) of the members of the Commission.
5. Confidentiality
- a. If the Commission does not make a finding of probable cause, the complaint and the record of the Commission's investigation shall remain confidential, except on the request of the person who was the subject of the complaint.
6. Process
- a. After conducting an investigation of any complaint under Part 2 and the Commission finds that probable cause exists, it will then make public its findings and its record of the investigation not later than five (5) business days after the termination of its investigation and its decision. After this, the entire record of the investigation will be made public.
 - b. The findings and record of the investigation shall include: (1) the complaint; (2) the evidence received and considered; (3) a reference to the particular section of the Code of Ethics involved; (4) a short statement of the Commission's reason for finding probable cause.

SECTION III Public Hearings

1. If the Commission determines, after its investigation under Part 2, that probable cause for a violation of the Code exists, it will determine a date and conduct a public hearing within sixty (60) days to determine whether or not a violation occurred. At the hearing, the complainant and the respondent will have the right to be represented by legal counsel at his or her own expense.
 - a. The Commission shall give notice of the date fixed for the hearing at least fourteen (14) days before the date of the hearing. The hearing may be continued from time to time at the Commission's discretion. The Commission will provide the accused with a list of intended witnesses not later than ten (10) days before the start of the hearing. The hearing shall be open to the public. The Commission will make a record of the proceedings.
 - b. In the event a hearing is held, a panel consisting of five (5) members or alternates shall hear it. In the event a hearing is continued to a new date, upon continuation a member or alternate may be substituted for one of the original panel members provided the substituting member was present for all prior hearings in the case.
2. Powers and Conduct of Hearings
 - a. The Commission may issue subpoena or subpoenas duces tecum, enforceable upon application to the Superior Court, to compel the attendance of persons at hearings and the production of books, documents, records and papers.
 - b. The Commission may require witnesses to testify under oath administered by the presiding officer or any other duly qualified person. The hearing shall be recorded using a recording device provided by the Commission. The complainant or respondent may employ a stenographer at his or her own expense.
 - c. If a transcript of the hearing is requested, a copy shall be supplied to the requesting party upon payment for any costs allowed under State Law. A copy of said transcript will be supplied to the Commission.
 - d. The Commission may consider hearsay evidence and have broad latitude in enforcing the Rules of Evidence. Any information relevant to the matter may be considered. The Commission will respect the rules of privilege recognized by the law. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form sworn to 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 Commission will be given an opportunity to compare the copy with the original.

3. Decisions and Findings

- a. Decisions by the Commission that a person is in violation of the Code of Ethics must result from the affirmative vote of three (3) members of the hearing panel that there is clear and convincing evidence the respondent violated the Code, and no member may vote who was not in attendance at all hearings. Clear and convincing evidence is evidence indicating the probability that the respondent committed a violation is substantially greater than the probability that he or she did not.
- b. The Commission shall render its finding and memorandum of decision in writing within thirty (30) days after the conclusion of the hearing on the complaint.
- c. When there has been a finding of a violation the Commission shall report the finding and a recommendation for action to the City Council. The Commission shall also report to such other officer or board of the City with the power granted by the Charter or state statute to remove the officer, official, or employee found to have committed the violation, when such power of removal exists.
- d. When the power of removal exists, the officer or board of the City with the power to remove the violator shall within sixty (60) days of receiving a report of violation report back to the Ethics Commission the disposition of the matter. In all other cases, a report of disposition may be made by the City Council at its discretion.
- e. The Commission shall also publish notice of its findings of decision on the City website and with the City Clerk.
- f. Such findings and memoranda of decision shall constitute the Commission's final decision.