

CHAPTER 24

ETHICS, CODE OF

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Section 2401                    Applicability of Provisions

(A) The provisions of this Chapter shall apply to: all publicly elected officials, candidates for public office, officials and regular employees of the Town of Landover Hills, except those persons serving on committees, advisory bodies or commissions appointed for any specific purpose so long as said body does not have decision-making authority and is not an operational board or commission.

Section 2402                    Definitions

In this Chapter the following words have the meanings indicated:

(A) “Business Entity” means an entity or person engaged in business, whether for profit or nonprofit, regardless of form

(B) “Compensation” means money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered.

(C) “Employee” means a person hired and compensated to perform work for the Town under the direct supervision of the Town. The independent contractors the Town may contract with, such as the Town Attorney, auditors, architects, engineers, etc. are not employees.

(D) “Employer” means an entity that pays or agrees to pay compensation to another entity for services rendered.

(E) “Family Member” means any brother, sister, parent, child, spouse or domestic partner of a person subject to this Chapter, or one who is related to a person subject to this Chapter by blood, marriage, other legal arrangement (guardian, domestic partner) or adoption and is a member of the household.

(F) “Financial Interest” means:

(1) Ownership of an interest as a result of which the owner has received, within the past 3 years, is currently receiving, or in the future is entitled to receive, more than \$1,000.00 per year; or

(2) Ownership of more than 3% of a business entity by a Town official or employer or his/her spouse.

(3) Ownership of securities of any kind that represent, or are convertible into, ownership of more than 3% of a business entity by a Town official or employer or his/her spouse.

(G) “Gift” means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. “Gift” does not include the solicitation, acceptance, receipt or regulation of a political contribution that is regulated in accordance with any law regulating elections or the receipt of political contributions.

(H) “Interest” means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition. “Interest” does not include:

(1) An interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(2) An interest in a time or demand deposit in a financial institution;

(3) An interest in an insurance policy, endowment policy, or annuity contract by which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period; or

(4) A common trust fund or a trust fund that forms part of a pension or a profit-sharing plan that:

(a) Has more than 25 participants; and

(b) Is determined by the internal revenue service to be a qualified trust under §401 or §501 of the internal revenue code.

(O-01-03)

#### Section 2403 Ethics Commission Established: Powers and Duties and Procedures

(A) Appointment & Term: There shall be a Town of Landover Hills Ethics Commission, which shall be composed of three (3) members appointed by the Mayor and approved by the Council. He/she shall be appointed thirty (30) days after each general election and serve two-year terms or until a successor is appointed, whichever is longer. The Commission shall be advised by the Town attorney, or an attorney specially appointed by the Mayor and Council. The Town Attorney shall assist the Commission in fulfilling its duties and powers and shall act on behalf of the Commission if the Commission is unable to do so.

(B) Duties and Powers: The Commission shall have the following powers and duties:

(1) To devise, receive and maintain all forms generated pursuant to this Chapter.

(2) To provide published advisory opinions to persons subject to the Chapter as to the applicability of the provisions of the chapter to them.

(3) To process and make determinations as to complaints filed by any person alleging violations of this Chapter.

(4) To conduct a public information program regarding the purpose and application of this Chapter.

(5) To retain as a public record each document filed with the ethics commission for at least four (4) years after receipt.

(6) To periodically review the adequacy of public ethics laws.

(7) To adopt regulations to implement this Chapter.

(8) To issue subpoenas for persons and evidence and to judicially enforce such subpoenas.

(C) Quorum: The ethics commission shall only act in an official capacity if a quorum of at least two (2) members are present. In the absence of such quorum, the ethics commission may not act except to attempt to have a quorum within fifteen (15) days of the first attempt. If the ethics commission is unable to assemble a quorum the Town attorney or an attorney specially appointed by the Mayor and Council shall act in their absence according to this Chapter, the State Code and such other terms set by the Mayor and Council.

(D) Oaths & Subpoenas:

(1) The ethics commission may:

(a) Administer oaths; and

(b) Issue subpoenas for the attendance of witnesses to testify or to produce other evidence.

(2) Judicial Enforcement. – a subpoena issued under this section may be judicially enforced.

(E) State Code: The ethics commission shall consult and use the State Ethics law (codified as §15-101 *et. seq.* of the State Government Article of the Maryland Code) as a guide and authority in matters not specifically addressed herein.

(F) Advisory Opinions:

(1) Required. On written request of a person subject to this Chapter, the ethics commission shall issue an advisory opinion regarding the application of this Chapter.

(2) Discretionary. On written request of any other person or entity, the ethics commission may issue an advisory opinion.

(3) Requirements. Each advisory opinion may be:

- (a) In writing; and
- (b) Published.

(4) Confidentiality. Before an advisory opinion may be made public, the ethics commission shall delete:

- (a) The name of the entity that is the subject of the opinion; and
- (b) To the fullest extent possible, any other information that may identify the entity.

(G) Complaints:

(1) Commencement of Action:

(a) Any person may file with the ethics commission a written complaint alleging a violation of this Chapter.

(b) A complaint filed under this subsection shall be signed; and made under oath.

(c) The ethics commission on its own motion may issue a complaint alleging a violation of this title.

(2) Copy to Respondent. The ethics commission promptly shall transmit to the respondent a copy of the complaint.

(3) Hearing. The ethics commission shall promptly investigate any complaint and dismiss it or provide and hold a hearing conducted under Title 10, Subtitle 2 of the State Government Article of the Maryland Code.

(4) Findings:

(a) After the ethics commission considers all of the evidence presented at the hearing, it shall make findings of fact and conclusions of law in writing with respect to each alleged violation.

(b) If the ethics commission determines that the respondent has not violated this title, the ethics commission shall dismiss the complaint in a signed order and promptly send a copy of the order to the complainant and the respondent.

(c) If the ethics commission determines that the respondent has violated this title, the ethics commission shall:

(i) Issue an order of compliance directing the respondent to cease and desist from the violation; and/or

(ii) Issue a reprimand; and/or

(iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal, if that discipline is authorized by law; and

(iv) Submit to the Mayor and Council the complainant and the respondent a written copy of any order or finding.

(H) Confidentiality.

(1) In General. Notwithstanding any other law and except as provided below, after a complaint is filed:

(a) The proceedings, meetings and activities of the ethics commission and its employees relating to the complaint are confidential; and

(b) Information relating to the complaint, including the identity of the complainant and respondent, may not be disclosed by the ethics commission or staff, complainant, or respondent.

(2) Duration. Except as provided in subsection (3) of this section (g), the restrictions above apply unless the matter is referred for prosecution, or the ethics commission finds a violation of this title.

(3) Disclosures allowed:

(a) The ethics commission may release any information at any time if the respondent agrees in writing to the release.

(b) On request of the respondent, the ethics commission at any time shall disclose the identity of the complainant to the respondent.

(4) Referral for Prosecution. If the ethics commission, while considering a complaint, finds that there are reasonable grounds to believe that the respondent may have committed a criminal offense, the ethics commission promptly shall refer the matter to an appropriate prosecuting authority.

(5) Evidence. The ethics commission shall make available to the prosecuting authority all pertinent evidence under its control.

(I) Judicial Review.

(1) If the respondent is aggrieved by a final order of the Commission, the respondent may seek judicial review as provided in title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act – Contested Cases).

(2) The order of the Commission is stayed automatically until the time for seeking judicial review has expired.

(3) The filing of a Petition for Judicial Review does not automatically stay the enforcement of the order.

Section 2404                      Conflicts of Interest

(A) Participation. Except as otherwise provided below, an official or employee of the Town may not participate in a matter if:

(1) The official or employee or any family member of the official or employee has an interest in the matter and the official or employee knows of the interest; or

(2) Any of the following is a party to the matter:

(a) Any business entity in which the official or employee, or any family member of the official or employee has a direct or indirect financial interest;

(b) Any business entity of which the official or employee or any family member of the official or employee is an officer, director, trustee, partner, or employee or with which they have applied for a position, are negotiating employment, or have arranged prospective employment;

(c) If the contract reasonably could be expected to result in a conflict between the private interest and the official duties of the official or employee, a business entity that is a party to a contract with the official or employee or qualifying relative; or

(d) A business entity that is a creditor or obligee of an official or employee, or of a qualifying relative with respect to a thing of economic value and is in a position to affect directly an substantially the interest of the official, employee or qualifying relative.

(B) Exceptions. The limitations on participation in Subsection (A) do not apply:

(1) If participation is allowed by regulation or advisory opinion of the ethics commission or by the opinion of an advisory body.

(2) If participation is limited to the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter involved.

(C) Disclosure. An official or employee who otherwise would be disqualified from participation under this Subsection shall disclose the nature and circumstances of the conflict, and may participate or act, if:

(1) The disqualification would leave a body with less than a quorum capable of acting;

(2) The disqualified official or employee is required by law to act; or

(3) The disqualified official or employee is the only individual authorized to act.

(D) Prohibitions:

(1) An official or employee may not:

(a) Be employed by or have a financial interest in:

(i) An entity subject to the authority of that official or employee or of the Town; or

(ii) An entity either as a contractor or subcontractor that is negotiating or has entered a contract with the Town.

(b) Hold any other employment relationship if that employment relationship would impair the impartiality and independent judgment of the official or employee.

(2) An official or employee may not solicit any gift for him/herself or on behalf of another.

(3) Except for trivial or ceremonial gifts, an official or employee may not knowingly accept a gift, directly or indirectly, from an entity that:

(a) Does or seeks to do any business of any kind, regardless of amount, with the Town;

(b) Engages in an activity that is regulated or controlled by the Town; or

(c) Has a financial interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties.

(4) Represent any party, for a contingent fee, before any Town body.

(5) Intentionally use the prestige of office or position for that official's or employee's private gain or that of another.

(6) Within one (1) year following termination of Town service, act as a compensated representative of another in connection with any specific matter in which he participated substantially as a Town official or employee.

(7) Engage in any improper action that could cause a family member to be hired, employed, promoted, transferred, disciplined in any paid employment with the Town.

(8) Permit or facilitate the unauthorized use of Town-owned facilities, vehicles, equipment, materials or personnel for private matters or profit.

(9) Other than in the discharge of his/her official duties, shall not disclose or use for his/her own economic benefit or that of another, confidential information which he/she acquired by reason of his/her public position and which is not available to the public.

(E) Filing of Conflict of Disclosure Statement: All persons subject to this Chapter shall file a statement with the Commission disclosing any interest or employment, the holding of

which would require disqualification from participation as soon as possible and at least seven (7) days before such matter is scheduled to occur.

(F) Exemptions: The Commission or, if appropriate, the Council, may, after consultation with the Town Attorney grant exemptions to or modifications of this Chapter as to persons subject to this Chapter where it finds that the application of this Chapter would constitute an unreasonable invasion of privacy or otherwise constitute an unreasonable hardship and would significantly reduce the availability of qualified persons for public service and if it also finds that the exemption or modification would not be contrary to the purposes of this Chapter.

Section 2405                      Solicitation and/or Acceptance of Gifts

(A) An official or employee may not solicit any gift. For purposes of this section, a gift shall include the transfer of anything of economic value, except a political campaign contribution, without adequate and lawful consideration.

(B) No official or employee or family member of the official or employee may knowingly accept any gift, directly or indirectly, from any person:

(1) Employed by an entity regulated by the Town,

(2) Who is seeking, negotiating or doing business with the Town of with any department of the Town, or

(3) Who has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the official's or employee's official duty.

(C) Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it, this section does not apply to:

(1) Meals and beverages received and consumed in the presence of the donor.

(2) Ceremonial gifts or awards which have insignificant monetary value.

(3) Unsolicited gifts of nominal value or trivial items of information value.

(4) Reasonable expenses for food, travel, lodging and scheduled entertainment of the official and spouse or the employee and spouse for a meeting which is given in return for participation in a panel or speaking engagement at the meeting.

(5) Gifts of tickets or free admission extended to an elected official to attend a professional or intercollegiate sporting event or charitable, cultural or political events if the purpose of such gift or admission is a courtesy or ceremony of the office.

(6) A specific gift or class of gifts which the Council or Commission exempts from the operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the Town and that the gift is purely personal and private in nature.



(7) Gifts from an individual related to the official or employee by blood or marriage; or from any other individual who is a family member of the official or employee; or from any person over whose financial affairs the person has legal or actual control.

(8) Compensation for speaking at, participating in, or attending a meeting or function or for a publication when such speaking, participation, attendance or publication is not attributable to official duties.

Section 2406                      Filing of Financial Disclosure Statement

(A) The persons listed in subsections (B) & (C) of this section shall file annually, no later than January 31 of each calendar year, a statement with the Commission disclosing any business relationship with, any gifts or other compensation of a total of over twenty-five dollars (\$25.00) received during the preceding calendar year by them or by any family member, from any person bidding on, negotiating or having a contract with the Town or any person regulated by the Town or one (1) of its departments. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt. If a person listed in subsections (B) & (C) of this section has no relationship, gift or compensation to disclose pursuant to this subsection, he/she shall file a statement specifically denying any reportable business relationship, receipt of gift or other compensation by him/her or any family member during the relevant time.

(B) Officials and employees required to file under this section are the Mayor, members of the Town Council, Town Manager, department heads and any appointed official on a board with decision-making authority, such as the election supervisors and the members of the Ethics Commission. The Town Manager and/or Ethics Commission shall create a disclosure statement form and no later than January 1, of each year the Town Manager shall send each person listed in this subsection the form and notice of their obligation to fill out and file the disclosure statement with the Clerk before January 31.

(C) Any individual who files as a candidate for elected municipal office in the Town shall also file a Financial Disclosure Statement covering the twelve (12) months immediately preceding the filing.

Section 2407                      Filing of Registration Statement; Contents

(A) Any person who personally appears before any Town official or employee with the intent to influence that person in performance of his official duties and who, in connection with such intent, expends or reasonably expects to expend in a given calendar year in excess of one hundred dollars (\$100.00) on food, entertainment or other gifts for such official shall file a registration statement with the Commission no later than January 15 of that calendar year or within five (5) days after first making such appearances.

(B) The registration statement, which shall be filed annually, shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances.

(C) Registrants under this section shall file a report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to a Town official or employee. Where a gift or

series of gifts to a single official or employee exceeds one hundred dollars (\$100.00) in value, the official or employee shall also be identified.

Section 2408                      Enforcement Violations and Penalties

(A) The Commission may issue a cease and desist order against any person found to be in violation of this Chapter and may seek enforcement of such order in the Circuit Court of Prince George's County.

(B) A Town employee found to have violated this Chapter may be subject to dismissal, disciplinary or other appropriate personnel action, including suspension of Town salary or other compensation.

(C) Any violation of this Chapter shall be a municipal infraction, subject to a fine of up to one hundred dollars (\$100.00).

(D) The Mayor and Town Council shall have the authority to take action against any Town official upon the Commission's finding a violation by the official, including but not limited to censure, fine, refusal to seat a member and removal.