

RTM Meeting  
November 13, 2012

**REPRESENTATIVE TOWN MEETING NOTICE**

All Representative Town Meeting Members and inhabitants of the Town of Westport are hereby notified that a meeting of the Representative Town Meeting members will be held at Town Hall, 110 Myrtle Ave., on Tuesday, November 13, 2012, at 8 p.m. for the purposes listed below. If necessary, the meeting shall reconvene on Tuesday, November 27, 2012 to deal with any agenda items not disposed of at the adjournment of the November 13, 2012 meeting.

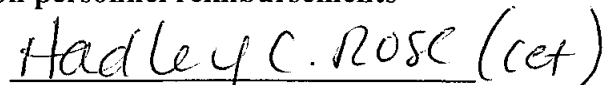
1. To take such action as the meeting may determine, upon the recommendation of the Town Assessor and upon the recommendation of the Board of Finance, to amend Chapter 54, Article II, Division 2 of the Code of Ordinances of the Town of Westport, Tax Relief for Senior Citizens or Permanently and Totally Disabled Persons. (Second reading, full text available in the Town Clerks Office)
2. To take such action as the meeting may determine, upon the request of at least 20 electors, to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women voters of Westport.

Pending Board of Finance approval on November 7, 2012

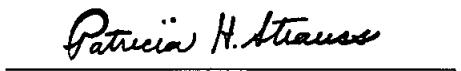
3. To take such action as the meeting may determine, upon the recommendation of the Board of Finance and a request by the Superintendent of Schools to approve an appropriation of \$142,412 to the 2011-2012 Budget, BOE Rentals & Reimbursements Expenditure Account, as follows:

\$110,140.41 is deemed appropriated in accordance with Section 10-222a of the Connecticut General Statutes; and

\$32,271.59 is appropriated to fund the cost of union personnel reimbursements

  
Hadley C. Rose, Moderator

This is to certify that I mailed a copy of the above notice, properly prepaid, to each Representative Town Meeting Member on Tuesday, November 6, 2012 and that I caused a copy of said notice to be published in the Westport News in its edition of Friday, November 2, 2012.

  
Patricia H. Strauss, Town Clerk

RESOLUTIONS

(1)

RESOLVED: That upon the recommendation of the Town Assessor and the Board of Finance, Chapter 54, Article II, Division 2 of the Code of Ordinances of the Town of Westport, Tax Relief for Senior Citizens or Permanently and Totally Disabled Persons is hereby amended. (Second reading, full text is as follows.)

Sec. 54-62. - Statutory authority.

This division is adopted pursuant to the authority granted to the Town under C.G.S. § 12-129n.  
(Code 1981, § 134-2)

Sec. 54-63. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Assessment Tax year* means the fiscal year beginning July 1 and ending June 30 for which property taxes are ~~assessed- paid and which are~~ based upon the grand list valuation of the preceding October 1.

*Qualifying income* means the adjusted gross income, as defined in the Internal Revenue Code of 1986, as may be amended, plus tax-exempt interest income, plus any other income as may be reportable for federal income tax purposes, as well as nontaxable income, including the nontaxable component of social security benefits and excluding capital losses and any current year business operating losses, losses from rental activities, current year deductions for depreciation of assets used in a trade or business, and any net operating loss (NOL) carryover reportable for federal income tax purposes. railroad retirement benefits, income from other tax-exempt retirement and annuity sources, and the nontaxable portion of any Social Security benefits, less Qualifying income may be reduced by an amount equal to the medical and dental expense deduction allowed or allowable under Section 213(a) of the Internal Revenue Code of 1986, as may be amended.

Although the following list is not intended to be all-inclusive, examples of items to be included in determining qualifying income are as follows:

- (1) Wages, bonuses, commissions, gratuities and fees, self-employment net income;
- (2) Gross social security, federal supplemental security income, payment for jury duty (excluding travel allowance);
- (3) Dividends, interest, and annuities;
- (4) Taxable portion of IRA distributions;
- (5) Black Lung payments;
- (6) Experience Works payments (formerly Green Thumb payments);
- (7) Interest or proceeds resulting from gifts received;
- (8) Lottery winnings;
- (9) Net income from the sale or rent of real or personal property (excluding depreciation);
- (10) Taxable pensions, including veterans' and railroad retirement pensions;
- (11) Severance pay; unemployment compensation;
- (12) Worker's compensation;
- (13) Alimony; and

(14) Capital gains.

Qualifying income shall exclude income from the following sources:

- (1) Social Security payments specifically for a dependent person or minor child;
- (2) Casualty loss reimbursements by insurance companies;
- (3) Gifts, bequests or inheritances, except for any interest or other income produced by the gift, bequest or inheritance;
- (4) Grants for disaster relief;
- (5) Income derived through volunteer service under the Domestic Volunteer Service Act of 1973, as amended, including stipends earned under the Foster Grandparents' Program, Retired Senior Volunteer Program, Senior Companion Program, and Community Training under Department of Mental Retardation;
- (6) Life insurance proceeds;
- (7) Food stamps; fuel assistance; child support payments and temporary family assistance program payments.
- (8) For a married taxpayer whose spouse is a resident of a health care or nursing home facility and who is receiving payments related to such spouse under Title XIX Medicaid, qualifying income shall not include the spouse's Social Security income, provided that the following has been submitted to the Assessor on the facility's letterhead and signed by the administrator or other facility official:
  - (i) Proof that the spouse is in a health care or nursing home facility;
  - (ii) The period during the benefit year that the spouse was in the facility; and
  - (iii) The period during the benefit year that the spouse was on Title XIX Medicaid.

*Residence* means the property which is the principal residence of the taxpayer and all improvements thereon.

(Code 1981, § 134-3)

Sec. 54-64. - Criteria for qualification.

To qualify for the tax relief provided in this division, on the date of application, a taxpayer:

(1) Shall be:

a. Sixty-five years of age or older or whose spouse, who is domiciled with him or her, shall be 65 years of age or older;

b. Sixty years of age or older and the surviving spouse of a taxpayer previously qualified under this section at the time of his or her death; or

c. Under age 65 years of age and eligible in accordance with applicable federal regulations to receive permanent total disability benefits under Social Security, or shall not have been engaged in employment covered by Social Security and accordingly shall not have qualified for benefits thereunder, but shall have become qualified for permanent total disability benefits under any ~~F~~federal, ~~S~~state or local government retirement or disability plan, including the Railroad Retirement Act and any government-related teacher's retirement plan, in which requirements with respect to qualifications for such permanent total disability benefits are comparable to such requirements under Social Security; and

(2) Shall own real property (or be liable for the payment of taxes thereon under C.G.S. § 12-48) and shall occupy such property as his or her residence for not less than 183 days in the calendar year immediately preceding the date of application, provided however, if

the taxpayer has been confined to a nursing home or healthcare facility for more than 183 days in the immediately preceding calendar year, said taxpayer will not be disqualified for relief hereunder unless the taxpayer's confinement has or is expected to exceed 365 days. The following must be submitted to the Assessor on the facility's letterhead and signed by the administrator or other facility official:

- (i) Proof that the taxpayer is in a health care or nursing home facility;
- (ii) The period during the immediately preceding the date of application that the taxpayer was in the facility; and
- (iii) The period of time during which the taxpayer is expected to remain in the facility.

(3) Shall have been, or whose spouse shall have been, liable for residential real property taxes to the Town for a period of one year immediately preceding the receipt of tax benefits under this division; and

(4) Shall have individually, if unmarried, or jointly, if married, qualifying income in an amount not to exceed the limits described in Section 54-68 9. Such qualifying income limits shall be applied annually to the calendar year immediately preceding the date of application.

(Code 1981, § 134-4)

5) Shall have first applied for all state funded tax relief benefits applicable to the property for which the taxpayer is eligible or shall certify at the time of filing an application for tax relief hereunder on a form provided by the Assessor that he or she is ineligible for such tax relief.

6) Shall not rent all or a portion of his/her residence to a tenant for any period of time during which tax benefits are received hereunder unless the taxpayer is also occupying the residence.

7) No tax abatement shall be given to any taxpayer who has delinquent taxes (i.e. real property, personal property or motor vehicle taxes), capital assessments, fees, fines or user charges owed to the Town. For the purposes of this subsection, taxes previously abated or deferred shall not be considered delinquent. This section is not intended to disqualify taxpayers seeking a tax deferral only

8) No tax abatement shall be given to any taxpayer whose residence has a fair market value (based on the Assessor's fair market valuation) in excess of \$2,000,000.

#### Sec. 54-65 – Applicant as Trust

Notwithstanding the provisions of Sec 54-64, if title to the property is owned by a trust the taxpayer may still be eligible for tax relief hereunder if the taxpayer is the primary beneficiary of the trust and the taxpayer otherwise qualifies for tax relief hereunder. A copy of the trust agreement shall accompany the application and shall be reviewed by the Town Attorney prior to any tax relief being granted.

#### Sec. 54-65-6. - Benefit limitations.

The benefits under this division shall be limited to the residence of the taxpayer.

(Code 1981, § 134-5)

#### Sec. 54-66.7 - Application—Procedure; contents.

Applications for benefits under this division:

(1) Shall be made annually on forms provided by the Assessor of the Town and shall be accompanied by (a) a copy of the applicant's entire federal and state tax return; and (b) documentation of all other income for the calendar year immediately preceding the date of application; and (c) a properly executed IRS Form 4506 and IRS Form 4506T allowing the Town to verify the federal tax information and; (d) Form SSA – 1099 which shall indicate the taxpayer's residence address and (e) such other verification of income as may be required by the Assessor.

~~(2) Shall indicate, in addition to the qualifying information set forth in this division, whether or not the applicant has previously applied or is currently applying for this or any other State or local property tax relief.~~

3) Shall be submitted in person by the taxpayer unless the taxpayer is temporarily residing in a nursing home or healthcare facility. Proof that such taxpayer is in a facility must be submitted to the Assessor on the facility's letterhead and signed by the administrator or other facility official.

(Code 1981, § 134-6)

Sec. 54-67.8 - Application—Deadlines.

(a) *Tax abatement.* In order to claim tax abatement benefits pursuant to Section 54-689(1), an application shall be filed annually with the Assessor not later than the May 15 immediately preceding the applicable assessment tax year, commencing July 1 of that same calendar year.

For those taxpayers who have sought and received, by May 15 an extension of time to file a federal tax return, the application must nevertheless be filed by May 15 and a copy of the entire federal tax return must be received by the Assessor's office by June 15 or the application will be denied.

(b) *Tax deferral.* In order to claim tax deferral benefits pursuant to Section 54-689(2), applications shall be filed annually with the Assessor not later than the December 31 that falls within the applicable assessment tax year.

(Code 1981, § 134-7)

Sec. 54-68.9 - Tax relief programs.

An applicant may apply annually for one or more of the following tax relief programs:

(1) *Tax abatement.* For applicants who elect to apply for the tax abatement benefits under this division, the benefit shall be allowed on a graduated basis, as follows:

<i>Qualifying Income</i>	<i>Benefit Rate</i>
Less than \$25,000.00	\$3,500.00 shall be abated
\$25,000.00, but less than \$35,000.00	\$3,000.00 shall be abated
\$35,000.00, but less than \$45,000.00	\$2,000.00 shall be abated
\$45,000.00, but less than \$55,000.00	\$1,000.00 shall be abated

(2) *Tax deferral.* Applicants who elect to apply for tax deferral benefits under this division may defer taxes as follows:

<i>Qualifying Income</i>	<i>Benefit Rate</i>
Less than \$75,000.00	100 percent <u>Tax</u> deferral. The applicant may defer up to 100 percent of the tax assessed, less any <u>State</u> and local tax relief, for the applicable <u>tax</u> assessment year
\$75,000.00 but less than \$100,000.00	<p><del>Deferral freeze:</del> <u>Tax increase deferral.</u> The applicant may defer up to 100 percent of any increase in real property taxes from the immediately preceding tax year. For purposes of this deferral, the applicant's residence in the immediately preceding year must be the same as the applicant's residence in the applicable tax year.</p> <p>(1) <del>The applicant may defer an amount not to exceed the increase between the tax, less any State tax relief, for the applicable assessment year and the tax, less any State tax relief, for the base year, provided that applicant's residence in the base year is the same as the applicant's residence in the applicable assessment year.</del></p> <p>(2) <del>General rule.</del> The base year shall be the later of the assessment year beginning July 1, 2005, or the assessment year immediately preceding the initial year of application for the residence for which application is made.</p> <p>(3) <del>The term "initial year of application," as used in this section, shall be defined as the earliest assessment year for which the applicant filed a timely application for any of the tax relief programs of this section, provided that the applicant met all eligibility requirements of this article (including income, residency and age or disability) for the initial year of application.</del></p> <p>(4) <del>Exception.</del> Applicants with an initial year of application for the assessment year beginning July 1, 2007, may elect to utilize as a base year either the assessment year beginning July 1, 2005, or the assessment year beginning July 1, 2006.</p>

(Code 1981, § 134-8)

Sec. 54-69 70. - Hardship exception.

In cases of extreme hardship, the Board of Selectmen may, upon written application, ~~;~~ (i) waive the qualifying income requirement for either of the two tax deferral relief programs, or (ii) waive the qualifying requirement set forth in Section 54-64(8) for the tax abatement program. The term "extreme hardship" includes, but is not limited to, unreimbursed medical or dental expenses and unreimbursed property casualty.

(Code 1981, § 134-9)

Sec. 54-701. - Responsibility of tax deferral benefit recipient.

Any qualified recipient of a tax deferral benefit shall be subject to the following:

- (1) The recipient shall enter into a written agreement with the Town providing for reimbursement. The principal amount of such tax deferral benefit plus interest shall be recorded on the land records of the Town and shall constitute a lien on the property, payable upon the earlier of death or conveyance.
- (2) All deferral benefits plus interest shall be reimbursed to the Town upon the earlier of the death of the recipient or the conveyance of the real property subject to such deferral benefits, unless the property is conveyed to the recipient's spouse who meets the eligibility requirements of Section 54-64 75. In the case of a conveyance to a surviving spouse who does not meet the eligibility requirements of Section 54-64 75, all deferral benefits plus interest shall be reimbursed to the Town within five years of such conveyance unless, within such five-year period, the surviving spouse meets the eligibility requirements of Section 54-64 75. Interest shall continue to be at the rate set forth in Subsection (3) of this section and shall continue to accrue from the date of death until the date of payment. The grantee or, in the event of death, the personal representative of the person for whom tax deferral was approved, shall be required, within a period not exceeding ~~ten~~ forty-five days immediately following the date of death or conveyance, to notify the Assessor thereof.

(3) All benefits shall be subject to an interest charge at the annual percentage rate of 50 basis points less than the average Bond Buyer Eleven Index for January of each year rounded to the nearest whole percent. Such interest charge shall be included in the written agreement to be entered into by the Town and the recipient. Such interest shall be simple interest, not compounded and, except as provided in Subsection (2) of this section, shall accrue from the date of deferral until the earlier of the date of conveyance or death.

(4) Total deferments, including accrued interest, for all years shall not exceed the assessed value of the real property.

(5) The recipient shall provide written confirmation from the current mortgagee, if any, of the property stating that the mortgagee has knowledge of and is in agreement with the conditions set forth in this Section 54-71.

(Code 1981, § 134-10)

Sec. 54-712. - Proration of tax benefits.

The property tax benefits provided for in this division may, in any case where title to real property is recorded in the name of the taxpayer or his or her spouse and any other person or persons, be prorated to reflect the fractional share of such taxpayer or spouse or, if such property is a multiple-family dwelling, such benefits may be prorated to reflect the fractional portion of such current property occupied by the taxpayer or his or her spouse.

(Code 1981, § 134-11)

Sec. 54-723. - Coordination of benefits.

The tax relief provided for by this division shall be in addition to, and not dependent upon, any other local or State tax relief benefits for which an applicant may be qualified. In no case, however, shall the sum of tax relief benefits exceed the applicant's annual property tax assessment on his or her residence.

(Code 1981, § 134-11.1)

Sec. 54-734. - Implementation of provisions; confidentiality.

The Tax Collector and the Assessor of the Town shall prescribe, with regard to their respective duties under this division, such forms and procedures as may be necessary to implement the provisions of this division. The Assessor, in addition, shall satisfy himself or herself as to the qualifying income of an applicant for benefits under this division by requesting and reviewing such evidence of qualifying income as he or she may deem pertinent. All applications, federal income tax returns filed therewith and any additional evidence of qualifying income which the Assessor may require shall be kept confidential and not open to public inspection.

(Code 1981, § 134-11.2)

Sec. 54-745. - Appeals.

Persons aggrieved by any act or determination of the Assessor or Tax Collector under this division may appeal to the Board of Assessment Appeals.

(Code 1981, § 134-11.3)

Sec. 54-756. - Reduction of abatement due to conveyance or death.

If any person with respect to whom a claim for tax abatement, in accordance with this division, has been approved for any ~~assessment tax~~ year shall die or shall transfer, assign, grant or otherwise convey in such ~~assessment tax~~ year the interest in real property to which such claim for tax abatement is related, other than to such person's spouse who meets the eligibility requirements of Section 54-64, the amount of such tax abatement shall be pro rated. The pro rata portion of the amount otherwise applicable to such ~~assessment~~

tax year shall be determined by a fraction, the numerator of which shall be the number of full months in the assessment\_tax year prior to the date of death or conveyance and the denominator of which shall be 12. If such death or conveyance occurs in the month of July within the assessment\_tax year, the allowable abatement shall be zero. The grantee or, in the event of death, the personal representative of the person for whom tax abatement was approved shall be required, within a period not exceeding ~~ten~~ forty-five days immediately following the date of death or conveyance, to notify the Assessor thereof, whereupon the Assessor shall notify the Tax Collector of such death or conveyance, and, upon receipt of such notice, the Tax Collector shall, if such notice is received after the tax due date, deliver a bill to the grantee or personal representative, stating the additional amount of tax due.

(Code 1981, § 134-11.4)

Secs. 54-767—54-93. - Reserved.

(2)

RESOLVED: That upon the request of at least 20 electors, the adoption of an Ethics Code such as that prepared by the League of Women voters of Westport shall be considered.





**Assessor's Office  
110 Myrtle Avenue  
Westport, CT 06880**

**TO: The RTM Ordinance Committee**

**FROM: Paul Friia, Assessor**

**Date: October 11, 2012**

**RE: RTM Ordinance Committee Checklist**

**1) Why do we need this ordinance? (What problem does it solve?)**

A. Through observations during the application process, there has been a growing sense in the Assessor's Office that certain clarifications and a redefining of income requirements were needed.

The most significant change to the ordinance is the change to the definition of "qualifying income". We have observed that taxpayers with considerable incomes who would not otherwise be income qualified, can reduce their income by applying losses and therefore qualify for the program.

A survey of Fairfield County towns revealed that most exclude losses when calculating qualifying income while Westport does not. These municipalities treat all losses as zero. This means that losses in ventures such as business and real estate have no affect on income when determining eligibility for tax relief. The new income requirements would strengthen the program by reducing the number of current recipients and allowing the focus to be properly on the residents who have limited incomes.

**2) Is the proposed ordinance a new one or an amendment to an existing Westport ordinance? If an amendment, what are the proposed changes and why are they important? (Copy of existing ordinance to be attached.)**

A. The proposal is an amendment to Division 2 of Chapter 54, of the Code of the Town of Westport, Tax Relief for Senior Citizens or Permanently and Totally Disabled Persons. The proposal modifies the following Sections:

a) Section 54-63 – Definitions.

(i) Changing the definition of “Assessment Year” to “Tax Year” (note: all sections of the ordinance that refer to “Assessment Year” and have been changed to “Tax Year”) and

(ii) Changing the definition of “Qualifying Income” by excluding therefrom capital losses and current year business operating losses, losses from rental activities, current year deductions for depreciation of assets used in a trade or business and any net operating loss carryover. The amendment to this definition also includes the addition of examples of items to be included in determining “Qualifying Income” for purposes of eligibility for tax relief.

b) Section 54-64 – Criteria for qualification.

(i) Subsection (1)(c) - grammatical change and lower casing “Federal” and “State”.

(ii) Subsection (2) – adding that a taxpayer who is confined to a healthcare facility or nursing home will not be disqualified for not living in the residence 183 days in the year preceding the date of application provided the documentation specified in this amendment is submitted.

(iii) Subsection (5) – adding that a taxpayer is required to first apply for all state funded tax relief benefits or certify at the time of application that the taxpayer is not eligible therefor.

(iv) Subsection (6) – adding that the taxpayer shall not rent his/her residence

(v) Subsection 7 – adding that no taxpayer will be eligible for a tax payment if the taxpayer is delinquent on paying taxes.

(vi) Subsection 8 – adding that no tax abatement shall be given to a taxpayer whose residence has a fair market value in excess of \$2,000,000.

c) Section 54-65 – Applicant as Trust – added that if title to the property is owned by a trust that the taxpayer will not be disqualified provided the taxpayer is the primary beneficiary of the trust, is otherwise qualified and the trust is reviewed and found acceptable by the town attorney.

d) Section 54-67 – Application – Procedure; contents.

(i) Subsection 1(a) – added that the applicant must submit his/her “entire” federal tax return.

(ii) Subsection (c) and (d) - ;added that the taxpayer must execute IRS Form 4506 allowing the assessor to verify tax information and adding that the taxpayer must submit such other verifying information as required by the assessor.

(iii) Subsection 3 – added that the application must be submitted in person unless the taxpayer is confined to a healthcare facility and proof of same is submitted to the assessor.

e) Section 54-68 – Application - Deadlines

(i) Subsection (a) – added that taxpayers who received an extension to file a federal tax return must nevertheless file his/her application by May 15 and the tax return subsequently submitted by June 15.

(f) – Section 54-69 – Tax relief programs

(i) Subsection 2 – tax deferral –

Qualifying income of less than \$75,000 – minor changes.

Qualifying income of \$75,000 but less than \$100,000 – deleted section in its entirety and substituted language to allow the deferral of only the tax increase from the immediately tax year.

(g) – Section 54-70 – Hardship exception – added a hardship exception for the new qualifying requirement that a taxpayer owning a home with a fair market value of \$2,000,000 is ineligible.

(h) – Section 54-71 – Responsibility of tax deferral benefit recipient.

Subsection 5 – added that the recipient must provide written confirmation from mortgagee that the mortgagee is aware of the conditions of the tax relief program.

(i) – All cross references throughout the ordinance are changed.

**3) Is this the only practical solution to the perceived problem or are there other options (either legislative or non-legislative):**

A. There are no non-legislative options.

**4) Have we exhausted all non-legislative alternatives?**

A. Not applicable

**5) Does the problem warrant the solution? That is, is the problem serious enough, or widespread enough, to justify any restrictions that will result if this ordinance is passed?**

A. Yes. We believe that the problem is serious enough to change the method of income qualification. At present, Westport allows for items like business operating losses and real estate losses to be used in the calculation of qualifying income. By treating these losses as zero, Westport's income guideline would be more consistent with the majority of Fairfield County towns and other municipalities in Connecticut. The changes would focus the tax relief programs on the seniors that are truly in a low income bracket and that need the most assistance.

**6) Is the proposed ordinance fair to Westport's citizens?**

A. Yes, because these income based tax relief programs will continue to assist in benefiting Westport's seniors and totally disabled residents who are most in need. In

addition, the proposed changes will reduce the number of applicants, thereby maintaining fairness to other Westport taxpayers who ultimately pay for this program.

**7) Have the rights of all Westporters been considered?**

A. Yes

**8) If the proposed ordinance involves a fine or penalty, is the penalty reasonable in amount and fair in application? How was the amount determined? Is a maximum penalty specified? Are there any exceptions for extenuating circumstances? Is an appeals process specified? Is the appeals process fair? Is it practical?**

A. The proposal does not involve the imposition of a penalty.

**Questions regarding financial implications:**

**9) If the proposed ordinance involves the collection of any fees (including a monetary fine or penalty), will the revenue be retained by the Town? If so, how much revenue is estimated? Will it be included in the general fund? If not, where will the funds be distributed?**

A. The proposed ordinance does not involve the collection of any fees.

**10) Will the passage of the proposed ordinance result in a decrease in amounts currently expended by the town (for example, decreased maintenance costs)?**

A. No.

**11) Will the passage of the proposed ordinance result in any increased expenses for the town (for example, increased enforcement costs)? If so, how much additional cost is estimated.**

A. The changes in the ordinance will not result in any increased expenses for the Town.

**12) If so, how much additional cost is estimated?**

A. None

**13) Will the passage of the proposed ordinance result in any decreased revenues for the town? (An ordinance covering abatement of property taxes would be an example.)**

A. There is no decrease in revenues as other taxpayers absorb the cost of the benefits given to qualified applicants.

**14) If so, how much revenue loss is estimated?**

A. N/A

**Questions to be answered with assistance from the Town Attorney or Assistant Town Attorney:**

**15) Does the proposed ordinance conflict with any existing laws (municipal, state or federal?) If so, what modifications can be recommended? (Or, should the proposed ordinance be rejected in favor of a non-legislate alternative?)**

A. The proposal does not conflict with any existing law. C.G.S. Section 12-129n specifically enables the Town to enact programs of this nature.

**16) Is the language (and the intent) of the proposed ordinance consistent with Westport's powers as a municipality? (Copy of the state and/or federal enabling legislation to be attached.)**

A. Yes. As mentioned above, under C.G.S. Section 12-129n a municipality is authorized to implement tax relief programs in addition to those provided by other state statutes. A copy of the enabling statute is attached. Amendments to the tax relief programs are also contemplated by the statute.

**17) Are there any existing state or federal statutes covering the same subject? If so, why is the proposed ordinance necessary or advisable? (Copy of relevant state or federal law to be attached.)**

A. There are state statutes providing assistance for veterans and low income households, as well as renters. The state tax programs are limited in the amount of benefits they offer. The local tax relief provides additional benefits to a taxpayer.

**18) Do our neighboring towns have similar ordinances? Does the policy in neighboring towns have an impact on Westport?**

A. Yes, I have attached samples of other municipal ordinances of this nature. However, their policies do not impact our own.

**19) Is the language of the proposed ordinance consistent with its intent? Is the language of the proposed ordinance as clear as it can be? Will it be easily understood? Would it be clearer if definitions were added or revisions were made?**

A. The language reflects the intent but is subject to change based upon discussions during review by the ordinance committee.

**cc: Gordon F. Joseloff, First Selectman**

## MEMORANDUM

**To:** Representative Town Meeting  
**From:** RTM Ordinance Committee  
**Date:** October 22, 2012  
**Re:** Amendments to Chapter 54, Article II, Division 2 of the Code of Ordinances of the Town of Westport, Tax Relief for Senior Citizens or Permanently and Totally Disabled Persons

The Ordinance Committee met on October 12<sup>th</sup> with Paul Friia and Joyce Gentilozzi from the Assessor's office and Assistant Town Attorney Gail Kelly to determine whether the proposed amendments to the Tax Relief for Senior Citizens or Permanently and Totally Disabled Persons Ordinance were ready for RTM consideration.

Overview: The Westport Tax Relief Abatement and Deferral Programs offer tax relief to seniors with have qualifying income below certain thresholds. Seniors 65 and over (or those permanently disabled) with incomes below \$55,000 qualify for tax abatements ranging from \$1,000 to \$3,500 depending on their income level. Additionally, they can defer taxes (with interest) until their property is sold if their income is under \$75,000. Finally, those with income up to \$100,000 can defer property tax increases after their applications are accepted. The annual cost of the abatement program to the town is slightly under \$1.1 million. The amendment will modify the definition of qualifying income by eliminating losses against income. This change will save the town about \$75,000 annually. Finally, there are a few other proposed adjustments to the program that intended to clarify eligibility requirements.

Discussion/Action: The Committee reviewed the proposed changes to the Ordinance as proposed by the Assessor. They were accepted as presented except for the following suggested modifications:

- Sec. 54-63. – Definitions. In the section defining “Qualifying income”, remove “of assets used in a trade or business” in line 5. That is, it now reads “...current year deductions for depreciation, and any net operating loss...”
- Sec. 54-63. – Definitions. In the section “Qualifying income shall exclude income from the following sources” add item (9) “Military disability benefits.”
- Sec. 54-64 (2). The paragraph existing as section (2) becomes subsection (a) of section 2, and the following is added as new subsection (b) of section 2: “(b) The taxpayer’s federal and state tax returns and Social Security benefit statement”

(Form SSA-1099) shall show the address of the subject property as the taxpayer's residence address".

- Sec. 54-64 (6). The Committee understood that the intent of this section is to disqualify non-resident landlords, but felt that the section as written could have unintended consequences. The Committee recommends that this section be removed or modified to meet the intent.
- Sec. 54-67. Add at the end of (1) (a), "and Connecticut tax return and Social Security benefit statement (Form SSA-1099)."

Following the discussion, the Committee voted unanimously that the proposed amendments to the ordinance along with the above modifications were deemed ready for RTM consideration and action.

Respectfully submitted,

**RTM Ordinance Committee**

Eileen Flug, Chair

Allen Bomes, Reporter

Lee Arthurs

Don Bergmann (absent)

David Floyd

George Underhill

---

**From:** don bergmann [donlbergmann@sbcglobal.net]  
**Sent:** Thursday, October 25, 2012 1:06 PM  
**To:** Wieser, Jeffrey N.; Bomes, Allen S.; Lee Arthurs; Ashman, Arthur; Lowenstein, Richard A.; John McCarthy; Nathan, Gilbert; Schine, Lois G.; Cathy Talmadge; Flug, Eileen L.; David Floyd; Bomes, Allen S.; Lee Arthurs; Underhill, George  
**Cc:** Rose, Hadley C.; Tarpey, Colleen; Calise, Catherine; Friia, Paul; Kassen, Shelly  
**Subject:** \$2,000,000 Exclusion - Tax Abatement Program

To RTM Finance and Ordinance Committees:

We were in Sicily at the time of the Ordinance Committee meeting. Hence, I e mail both the Finance Committee and the Ordinance Committee members respecting the above matter.

At the October RTM Meeting, Catherine Calise spoke of her concerns with the \$2,000,000 home value exclusion being proposed to be added to the Tax Abatement Program. I share those concerns and will be supporting an amendment to the proposed changes which I believe Catherine will recommend to delete that exclusion. I hope such an amendment is considered by the Finance Committee. I believe the amendment would simply delete the \$2,000,000 language now proposed as a new "8)" to Section 54-64 of our Town Ordinances.

My position reflects the following:

1. Of the 444 participants in the tax abatement program, only six had homes that were assessed at over \$2,000,000. (See also First Selectperson Kassen's letter to the Board of Finance included in the RTM materials for further details. At that time there were seven such participants and Shelly provides further information as to this small number of residents);
2. Due to the small number of persons likely to be excluded by the proposed change, the change appears to be mostly symbolic. The Board of Finance has sought this change, not the Board of Selectmen. The Board of Finance appeared to want to do something and the \$2,000,000 exclusion is the most upon which a majority could agree;
3. By determining eligibility based upon the value of a home, Westport is singling out the one asset that should not be used to determine eligibility for a tax abatement program. A house is a rather illiquid asset, a house is an asset that has special importance to the owner, i.e. it is his or her home, and the value of a home is subject to many vagaries, some of which, particularly in Westport, have little to do with wealth and income level;
4. We all know that there are properties in Westport for which the land alone is worth more than \$2,000,000. The residents owning those properties may live in extremely modest homes which reflect their income levels. We make a mistake to alter the benefits of the Tax Abatement Program for those people because there may be a tiny few who may be, and possibly only a perception, as abusing the Program;
5. The \$2,000,000 rule places an additional burden on the Office of the Tax Assessor since the difference between \$1,999,000 and \$2,000,001 in appraised value will now take on a special significance. It is conceivable that this significance will result in appraisal challenges; and
6. Any limitation should probably have an adjustment for inflation or other systemic reasons for increases in property values. (This could be addressed by periodic amendments to the Program to be approved by the RTM, but such a built in shortcoming seems not worth the effort);

Again, I believe Catherine Calise will be proposing an amendment to the changes proposed to the Tax Abatement Program to delete proposed Section 54-64 8). I will second and support that amendment. I hope a majority of the RTM will also vote in favor of Catherine's amendment. I also hope that the



Finance Committee will consider this matter and, if supportive of this change, express that in the course of their forthcoming meeting.

No response to this e mail is sought.

Thank you, Don Bergmann RTM District One Representative



# WESTPORT CONNECTICUT

PATRICIA H. STRAUSS

TOWN CLERK

BACK UP MATERIAL  
RTM ITEM # *2*

October 17, 2012

Hadley C. Rose, Moderator  
Representative Town Meeting  
14 St. George Pl  
Westport, CT 06880

RE: Agenda Item Request pursuant to Section C5-6C of the Town Code

Dear Hadley:

Today, lead petitioner Patricia A. Porio of 16 Salem Lane, Westport, CT filed a petition from at least 20 electors of the Town of Westport pursuant to Section C5-6C of the Town Code, for the RTM to place an item on an upcoming Representative Town Meeting agenda, involving a request to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women voters of Westport attached hereto, or as revised by RTM. A copy of the petition pages and a copy of the League of Women Voters Municipal Ethics Code are attached.

At least 20 electors' names have been verified for acceptance of this petitioned request. Pursuant to Section C5-6C of the Town Code, please consider placing this matter on the agenda of the RTM at a future meeting.

Sincerely,

A handwritten signature in cursive script that reads "Patricia H. Strauss".

Patricia H. Strauss  
Town Clerk

Cc: Gordon F. Joseloff, First Selectman  
Ira Bloom, Town Attorney  
Gail Kelly, Assistant Town Attorney  
Gary G. Conrad, Acting Personnel Director

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

Name	Address
✓ <i>Granne Tager</i>	<i>8 Imperial Landing Westport, Ct</i>
✓ <i>Elizabeth Barnes Hoos</i>	<i>114 Greens Farms Rd Westport Ct</i>
✓ <i>Betsy Rudman</i>	<i>3 Park House Lane/Westport</i>
✓ <i>Oppe Metherin</i>	<i>17 CLOVER HANE - WSPT CT</i>
✓ <i>Estelle Holzman</i>	<i>8 Green Percha, Westport</i>
✓ <i>Dick Culver</i>	<i>8 BEDFORD DR, WPT</i>
✓ <i>Rene Anne Pruden</i>	<i>1 Stone Point Rd</i>

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*Patricia H. Strauss*  
 TOWN CLERK

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 7 signed names of electors, whose names appear on the last completed registry list of this town.

*Patricia H. Strauss*  
 Signed (Town Clerk)

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

	Name	Address
✓	<i>[Signature]</i>	13 HEAMPT LA
✓	George J. Caldwell	5 Peaceful Lane
✓	Mary Attanasio	39 Sturge Commons
✓	Mary Jane Deen	51 Hellpoint Rd.
✓	Jolenne Rogers	1 Donald Dr.
✓	Ginda Collins	21 Old Hill Farms Road
✓	Alice McOna	1 Twin Oaks Lane Westport
✓	Sumette Muthi	1 Twin Oaks Lane Westport
✓	Sally Barry	10 River Oaks Rd Westport
✓	Phil A. Loh	8 BEDFORD DR.
✓	Richard P. Huber	113 OLD RD
✓	John Tschubert	1 Twin oaks Lane
✓	Tommy Malinski	

NOT REGISTERED  
AND NO SUCH  
ADDRESS

NO SUCH  
ADDRESS  
NOT  
REGISTERED

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 Patricia H. Strauss  
 TOWN CLERK

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 9 signed names of electors, whose names appear on the last completed registry list of this town.

*Patricia H. Strauss*  
 Signed (Town Clerk)

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

Name	Address
✓ Lisanne Reedy	44 Gorham Avenue Westport, CT 06880

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*Patricia H. Strauss*  
 TOWN CLERK

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 1 signed names of electors, whose names appear on the last completed registry list of this town.

*Patricia H. Strauss*  
 Signed (Town Clerk)

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

Name	Address
✓ Patricia A. Porzio	16 Salem Lane 06880
✓ Christine B. Decker	13 Hermit Lane 06880
✓ Salvatore Gaur	16 Salem Lane 06880
✓ Yvonne Lentini	17 Blue Ribbon Drive
✓ Eleanor Lowenstein	372 Greens Farms Road Westport
✓ Alan Beasley	519 HARVEST COMM'S RD
✓ Jo Ann Davidson	519 Harvest Commons
✓ Liz Ann Kopp	114 Greens Farms Rd
✓ Lisa Smith	15 Pequot Trl
✓ STAN NAYLOR	77 Clinton AVE 06880
✓ HUGH BRADLEY	7 NORTHGATE, WESTPORT, CT
✓ B. Kenneth Wuxel	28 MINUTE MAN HILL WESTPORT
✓ Athena Marie Bradley	7 Northgate
✓ Joyce B. Netherton	17 CLOVER LANE
✓ Ellen van Dorsten	216 Hillport Rd
✓ Bill Wood	21 Joanne Court

NOT REGISTERED  
NOT REGISTERED

BILL WOOD

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 PAGE 14  
 VOR

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 14 signed names of electors, whose names appear on the last completed registry list of this town.

Patricia H. Strauss

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

NO SUCH ADDRESS  
ILLEGIBLE

Name	Address
✓ David Anderson	216 HILLSPOINT ROAD.
✓ John Dwyer	2 Old Mill Rd.
✓ <del>Matthew Decker</del>	209 Hills Point Rd.
✓ <del>Eric F...</del>	220 Hills point Rd.
✓ Penny Fulmer	25 Salem Rd
✓ <del>Joseph Thomas</del>	9 Francis Road
✓ Nancy D. Haller	54 Colony Rd.
✓ Paul Wallas	57 Colony Rd.
✓ Hope Herman	116 Grees Farms Rd.
✓ <del>Robert Johnson</del>	56 Long Lots Rd.
✓ <del>Robert Johnson</del>	1 Pioneer Rd.
✓ <del>William Richard</del>	19 Bulkeley Ave North
✓ <del>Don Steel</del>	23 Bridge St
✓ Peg Bush	7 Bradley
✓ Catherine Polachinski	27 Woods Cir
✓ Jill Greenly	7 Stratmore Ln Westport

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Patricia H. Strauss  
TOWN CLERK

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 15 signed names of electors, whose names appear on the last completed registry list of this town.

Patricia H. Strauss

# PETITION

We the undersigned, electors of Westport, Connecticut, petition the Representative Town Meeting to take up consideration of the adoption of an Ethics Code such as that prepared by the League of Women Voters of Westport attached hereto, or as revised by RTM. This code is intended for use by town officials, elected or appointed, as well as town employees. (We request that this petition be considered by the RTM before the end of 2012.)

Name	Address
✓ <i>Joyce Orlandy</i>	<i>10 Coleytown Rd</i>
✓ <i>Linda L. Lacey</i>	<i>35 Arden Rd.</i>
<del><i>Norman Lacey</i></del>	<i>35 Arden Rd</i>
<del>_____</del>	<i>111 Kings Highway South</i>
✓ <i>Pat Temple</i>	<i>29 Center Street</i>
✓ <i>Lee Quenberq</i>	<i>91 Wickford Rd</i>
✓ <i>Vidal Gray</i>	<i>8 Starves Common</i>
✓ <i>Carl B...</i>	<i>3 Winding Lane</i>
✓ <i>Maureen R...</i>	<i>4 Foxfire Lane</i>
✓ <i>Arthurd P. Hawes</i>	<i>67 Wright St.</i>
✓ <i>Jim Harker</i>	"
✓ <i>Shirley Creativa</i>	<i>45 Owenoke, Wspt.</i>
✓ <i>Jane Foster</i>	<i>1 Winding Lane West</i>
✓ <i>Al Hayeman</i>	<i>116 Greens Farms Rd</i>
✓ <i>E. M. Baker</i>	<i>P Bedford R. Westport</i>
✓ <i>Kathleen Alton</i>	<i>38 Edgewater Corn Ln</i>

ILLEGIBLE  
NO SUCH  
ADDRESS

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 PAGE 1  
 Patricia H. Strauss  
 TOWN CLERK

I, Patricia H. Strauss, Town Clerk of the Town of Westport, certify that this petition page was filed with me October 17, 2012 and that it contains 15 signed names of electors, whose names appear on the last completed registry list of this town.

*Patricia H. Strauss*  
 \_\_\_\_\_  
 Signed (Town Clerk)



LWV MUNICIPAL ETHICS CODE WORKING GROUP

May 25, 2012

**Preamble**

This code seeks to establish clear standards of ethical conduct for all who serve the town of Westport. These include, but are not limited to, all town officials and employees, whether elected or appointed, paid or unpaid.

The code sets forth guidelines, standards, and limitations consistent with the best interest of the Town of Westport, while supporting participation in Town government by the dedicated individuals on whom the Town relies. It also establishes procedures for enforcement.

Candidates for elective or appointive office or for Town or board employment shall familiarize themselves with this code and disclose during the process of election, appointment or employment anything addressed in this code that might impair their ability to perform in the office or position that they seek or for which they are being considered.

**Conflict of Interest**

In order to avoid conflicts of interest, any official or employee of the Town shall refrain from participation in any Town, board, or agency matter in which he or she has a financial or personal interest, whether direct or indirect.

**Use of Town Property**

No official or employee shall use, or permit the use of, Town property of any nature, including vehicles, supplies, and real property for the benefit of himself or herself, except when such property is made available to the general public and then on terms and conditions not more favorable than those available to the general public.

**Use of Town Services**

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*Christina J. Harney*  
TOWN CLERK

No official or employee shall use or permit the use of town services of any nature except for the benefit of the town.

#### **Use of Town Position**

No official or employee shall use his or her position, or knowledge acquired through that position which is not available to the general public, for the purpose of obtaining or furthering a financial or personal interest, whether direct or indirect.

#### **Gifts and Other Things of Value**

No official or employee or member of his or her family or any business with which he or she is associated shall solicit or accept anything, including gifts, loans, services, rewards, or promises of employment, that could reasonably be expected to influence the action or judgment of the official or employee in any Town or board matter.

#### **Disclosure and Recusal**

Whenever a matter arises in which an official or employee may have a conflict of interest, the official or employee shall disclose it to his or her board or supervisor and shall abstain from participation in the deliberation, decision-making and action with respect to the matter unless and until he or she procures an advisory opinion under this code that provides otherwise.

#### **Ethics Council: Organization and Administration:**

- A. Appointment and composition of Council on Ethics.** The Council shall consist of five electors of the Town who shall serve without compensation. No more than three shall be registered in the same political party. No member shall serve on any board other than the Council or as an employee during his or her term of service on the Council. Members shall be appointed to the Council, and vacancies filled, by the Board of Selectmen.
- B. Terms of service.** Except as otherwise provided in this and the following subsection, members shall serve for terms of three years. Service shall be limited to two successive

- full three-year terms. After a lapse of one year, a former member shall again be eligible for appointment. Terms shall commence on December 1. Members shall serve until their successors take office. Any term that would otherwise expire during the pendency of a Council proceeding shall automatically be extended to the end of that proceeding.
- C. Initial appointments.** Initial appointments shall be for staggered terms ending as follows: two on November 30, 2015, two on November 30, 2014, and one on November 30, 2013.
- D. Election of officers.** The Council shall elect annually a Chair, a Vice-Chair, and a Secretary.
- E. Frequency of meetings, quorum, and duties of officers.** Meetings shall be held as needed and in any event at least semi-annually. A majority shall constitute a quorum for the conduct of business except as provided elsewhere in this Code. The Chair shall call and preside over meetings; the Vice-Chair shall preside over meetings in the absence of the Chair. The Secretary shall keep minutes of meetings and shall file agendas and minutes with the Town Clerk.
- F. No inquiry on Council's own initiative.** The Council shall have no authority to present matters for inquiry or investigation on its own initiative.
- G. Access to Town records and personnel.** In furtherance of its duties, the Council shall have access to Town records and personnel as permitted by law. The Council may request assistance from any official or employee and retain others to aid it in pursuing any investigation.
- H. Access to legal counsel.** The Council shall have access to Town Counsel and to special legal counsel of the Council's choosing if Town Counsel is disqualified from assisting the Council or recuses, or if the Council deems it inadvisable to proceed with advice from Town Counsel in the circumstances. If special counsel is retained, the Town's Chief Financial Officer or his or her deputy shall negotiate terms of engagement for special counsel.

- I. **Maintenance of Council's records.** The Council's records shall be stored in Town Hall. Those records that are designated as confidential by the Council shall be stored accordingly and shall not be available for public review except as required by law.
- J. **Notification of filings.** The Town Clerk shall serve as the Council's agent for receipt of correspondence and filings and shall promptly notify the Council of all correspondence and filings.
- K. **Delivery of this code to each official and employee.** Within 30 days following the adoption of this code, a copy shall be furnished by the Town to each official and employee. Persons subsequently elected, appointed or employed shall receive a copy of this code at the time their service commences. Each recipient shall acknowledge, in a writing deposited with the Town Clerk, receipt of a copy of this code and agreement to abide by its terms.
- L. **Amendment; adoption of rules.** The Council may recommend to the Board of Selectmen amendment of this code and may also adopt rules in furtherance of, and not inconsistent with, its provisions.

**Procedure for Complaints:**

**A. Filing of a complaint**

1. A complaint may be made by any individual. It shall be made in writing signed under oath before a notary and shall state the name and address of the complainant, the identity of the official or employee and, if applicable, the relative or business involved in the complaint, the conduct that allegedly violates the code, and a summary of the relevant facts.
2. A complaint must be filed within one year after the matter in question has allegedly occurred.
3. The complaint shall be filed with the Council in a sealed envelope addressed to the Council and marked "confidential." It shall be delivered to the Town Clerk either by hand or by certified mail, return receipt requested. The complaint shall be deemed

to have been filed on the date of its receipt by the Town Clerk and shall be treated by the Town Clerk as a confidential document.

4. The Council, within three business days after the filing, shall notify the respondent by certified mail, return receipt requested, of the filing and date of the complaint and enclose copies of the complaint and this code.
5. The Council, within three business days after the filing, shall notify the respondent by certified mail, return receipt requested, of the filing and date of the complaint and enclose copies of the complaint and this code.

**B. Probable cause**

1. The Council shall review the complaint to determine whether probable cause exists for further proceedings and may conduct an investigation for this purpose. Any investigation conducted prior to a probable cause finding shall be confidential unless confidentiality is waived in writing by the respondent. The respondent may submit a preliminary written reply to the Council within 15 days after the filing of the complaint and before a probable cause finding issues.
2. If the Council decides by majority vote of members eligible to vote that the complaint does not warrant further investigation because of its lack of factual basis, its de minimis nature, or otherwise, it shall issue a finding of no probable cause dismissing the complaint. The finding and the complaint shall remain confidential unless confidentiality is waived in writing by the respondent. A finding of no probable cause shall be final. The Council shall direct the Town Clerk to forward copies of the finding to complainant and respondent by certified mail, return receipt requested, within three business days thereafter.
3. If, by majority vote of members eligible to vote or by tie vote, the Council finds probable cause, the Council shall direct the Town Clerk to forward copies of the finding to complainant and respondent by certified mail, return receipt requested, within three business days thereafter. Upon a finding of probable cause, the complaint, the finding, and the information gathered during the investigation, if any, shall be made available to the public, and all filings and proceedings that follow shall

be public except as required by law; provided, however, that deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act.

**C. Response** Respondent shall have 30 days after his or her notification of a finding of probable cause to file a response with the Town Clerk. The Council may, upon reasonable grounds, extend this deadline for filing.

**D. Hearing**

1. The Council shall hold a hearing on any complaint as to which it has found probable cause unless respondent waives a hearing in writing and the Council decides not to hold one. The hearing shall be held on written notice of no less than 30 days to complainant and respondent sent by the Town Clerk by certified mail, return receipt requested. The Council may, upon reasonable grounds, extend the date of the hearing at the request of the respondent.
2. If a hearing is held, respondent shall have the opportunity to be represented by legal counsel, to present evidence, and to examine and cross-examine witnesses including the complainant. For purposes of its investigation and at the hearing, the Council is empowered to administer oaths or affirmations and may compel the attendance of witnesses by issuance of subpoenas. It may also require the production of documents, whether in hard copy or electronic format, by issuance of subpoenas for their production. The Council may examine any witness who appears before it, including complainant and respondent. The Council may limit the number of witnesses and the scope of testimony to matters it believes relevant, material, not unduly repetitious, and necessary to reach a reasoned determination. A taped or stenographic record shall be made of all proceedings in the hearing.

**E. Determination**

1. Following the hearing, the Council shall issue a determination as soon as practicable, but not later than 30 days following the hearing, and file it with the Town Clerk, who shall mail copies to complainant and respondent within three business days thereafter. No member may vote on a determination unless he or she has attended

the entire hearing, if any, and participated in all deliberations. Deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act. A determination of violation requires a majority vote of members eligible to vote. In the event of a tie vote, the determination shall be that there is no violation.

2. A determination of no violation of this code shall be final.
3. If a violation is found, the Council may, but need not, also recommend in its determination sanctions which may include, but need not be limited to, censure, required recusal, disclosure of conflicts, and removal from appointive office or employment. Any sanctions imposed under this code shall be separate from, and not in limitation of, any other actions that may be taken against respondent in any proceedings outside this Code.

**F. Submission of determination of violation** A determination of violation of this code shall be submitted by the Town Clerk within three business days to the Board of Selectmen for such action as it deems appropriate; provided, however, that if the respondent is an official or employee of the Board of Education, the submission by the Town Clerk shall be to the Board of Education for such action as it deems appropriate.

### **Definitions**

#### **FINANCIAL INTEREST**

Any interest representing an actual or potential economic gain or loss, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business.

#### **PERSONAL INTEREST**

Any interest representing an actual or potential noneconomic benefit or detriment, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business.

#### **RELATIVE**

Any person related to an official or employee by blood, adoption, or marriage.

#### **COMPLAINANT**

The filer of a complaint.

#### **COMPLAINT**

A written request for determination made by an individual or a board regarding an alleged violation of this code by an official or employee.

#### **DETERMINATION**

A written final decision by the Council with respect to a complaint.

#### **HEARING**

A public proceeding before the Council following a finding of probable cause where testimony is taken and documents may be received.

**RESPONDENT**

The person against whom a complaint is filed.

**RESPONSE**

The respondent's written answer to the complaint.