



TITLE #: 5

Ordinance #: 10-07-11-031

Date: 10-07-2011

AN ORDINANCE OF CODE OF CONDUCT, ETHICS

DESCRIPTION: The Town of Cheswold declares that the proper operation of democratic government requires that:

- A. Public officials and employees be independent, impartial and responsible to the people.
- B. Governmental decisions and policy be made in the proper channels of governmental structure.
- C. Public office not be used for personal gain.
- D. The public have the confidence in the integrity of its government.

Section 1. PURPOSE.

The purpose of this article is to define a code of conduct and ethics for the Town of Cheswold government.

Section 2. APPLICABILITY.

This article shall apply to all elected officials, their assistants, appointed department managers/supervisors and members of boards, commissions and committees.

Section 3. DEFINITIONS.

As used in this article, the following terms shall have the meanings indicated:

3.1 Compensation

Any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

3.2 Financial Interest

When he or she, she or her parents, spouse, children (natural and/or adopted), and siblings of the whole and half-blood:

- 3.2.1** Has a legal or equitable ownership interest in the enterprise with a fair market value in excess of 5,000;
- 3.2.2** Is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for service as an employee, officer, director, trustee or independent contractor; or
- 3.2.3** Is a creditor of an insolvent private enterprise in an amount in excess of \$5,000.

3.3 Person

An individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

3.4 Private Enterprise

Any activity, whether conducted for profit or not for profit, and includes the ownership of real or personal property, provided that "private enterprise", does not include any activity of the State of Delaware, Kent County or any political subdivision or any agency, authority or instrumentality thereof.

Section 4. CODE of ETHICS.

- 4.1** Public officials and employees shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of their trust and which will not reflect unfavorably upon the Town of Cheswold and its government.
- 4.2** No public official or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any private enterprise or transaction or incur any obligation of any nature which is in substantial conflict with the proper performance of their duties in the public interest. No public official or employee shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any one of the following:
 - 4.2.1** Impairment in the independence of judgment in the exercise of official duties.
 - 4.2.2** An undertaking to give preferential treatment to any person.
 - 4.2.3** Impeding government efficiency or economy.
 - 4.2.4** The making of a governmental decision outside official channels.
 - 4.2.5** Any adverse effect on the confidence of the public in the integrity of the government of the Town.
- 4.3** No public official or employee shall engage in any transaction as representative or agent of the Town with any private enterprise in which they have any financial interest that might reasonably tend to conflict with the proper discharge of their official duties.
- 4.4** No public official or employee shall by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties or that they are improperly affected by the kinship, rank, position or influence of any person.
- 4.5** No public official or employee shall make personal investments in enterprises which they have reason to believe may be directly involved in decisions to be made by them or which will otherwise create substantial conflict between their duty in the public interest and their private investment.
- 4.6** No public official or employee shall use or attempt to use their official position to secure unwarranted privileges or exemption for themselves or others.

- 4.7** No public official or employee shall engage in any activity beyond the scope of their service or employment which might reasonably be expected to require or induce them to disclose confidential information acquired by them by reason of their position as such official or employee or official.
- 4.8** No public official or employee, beyond the scope of their service or employment, shall disclose confidential information gained by reason of their official position nor shall they otherwise use such information for personal gain or benefit.
- 4.9** No public official or employee other than a person who provides services to the Town solely as an independent contractor, nor any private enterprise in which such a public official or employee has any financial interest, shall sell goods or services to the Town.
- 4.10** Any public official or employee who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the Town Council.

Section 5. CONFLICTS of INTEREST.

- 5.1** No public official or employee, whether paid or unpaid, may approve, disapprove, vote or otherwise act upon any matter in which they have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of judgment or action in the performance of their official duties. Personal interest, as distinguished from financial interest, includes any interest arising from blood or marriage relationships or close business or political association.
- 5.2** A public official or employee has an interest which tends to impair their independence of judgment or action in the performance of their official duties when:
 - 5.2.1** The enactment or defeat of any matter would result in a financial benefit or detriment to accrue to the public official or employee or other personal interest to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
 - 5.2.2** The public official or employee or other personal interest has a financial interest in a private enterprise which enterprise or interest would be affected by the matter to a greater extent than like enterprises or other interests in the same enterprise.
- 5.3** A public official or employee who has a financial or other personal interest in any matter shall disclose on the records of the Town of Cheswold or other appropriate authority the nature and extent of such interest. This provision shall not apply if the public official or employee disqualifies themselves from voting on such matter.
- 5.4** Any public official or employee who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the Town Council.

Ordinance No: 10-07-2011-031

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Section 6. That this ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect December 5, 2011 from and after the date of its final passage and adoption.

Ordinance No. 10-07-2011-031 entitled, Code of Conduct – Ethics, was duly adopted by a majority vote of the Cheswold Town Council at the Council meeting held on Monday, November 7, at which a quorum was present.

I, Jeannette Williams, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Act passed by affirmative vote of all elected Members of the Cheswold Town Council on Monday, November 7, 2011.

Certified: _____
Mayor

Date: November 7, 2011

ATTEST: _____
Secretary/Treasurer

Date: November 7, 2011

Agreed: _____
Vice-Mayor

Date: November 7, 2011

Agreed: _____
Councilperson

Date: November 7, 2011

Agreed: _____
Councilperson

Date: November 7, 2011

Agreed: _____
Councilperson

Date: November 7, 2011

Sponsored by: Theon E. Callender – Councilperson

Date: October 7, 2011