

NEWCASTLE FIRE PROTECTION DISTRICT

CONFLICT OF INTEREST CODE

WHEREAS, a Conflict of Interest adopted by the Board of Directors of the Newcastle Fire Protection District must set forth standards of conduct for the guidance of the officers and employees of the fire district and the volunteer members of the fire district, with respect to disclosure if interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and such other standards as may be deemed advisable.

NOW, THEREFORE, be it resolved that the Board of Directors of the Newcastle Fire Protection District hereby adopts a Conflict of Interest to read as follows:

CONFLICT OF INTEREST OF THE NEWCASTLE FIRE PROTECTION DISTRICT

Section 1. Purpose

Officers and employees of the Newcastle Fire Protection District and the members of the fire district, hold their positions to serve and benefit the public and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Board of Directors recognizes that, in furtherance principle, there is a need for clear and reasonable standard. This code establishes those standards.

Section 2. Definitions

- a. "Employee" means a paid employee of the fire district including, but not limited to, paid firefighters.
- b. "Family Member" means a parent, sibling, spouse, child, uncle, aunt, first cousin or household member.
- c. "Fire District" means the Newcastle Fire Protection District.
- d. "Interest" means a direct or indirect monetary, financial or other material benefit, but does not include any benefit arising from the provisions or receipt of fire protection or other emergency services generally available to the residents of the fire district. A person is deemed to have an interest in the contracts of any firm, partnership or corporation of which he or she is an owner, partner, director, officer, employee or stockholder.
- e. "Member of the Fire District" or "Fire District Member" includes a volunteer member of the fire district. The official powers and duties of a fire district member refers to the individual's powers and duties under laws, under rules or regulations adopted by the District Board Members, or under policies or procedures of the Board of Directors or the chief of the fire district.
- f. "Officer" means a person serving as a paid or volunteer officer of the fire district including, but not limited to, the members of the Board of Directors, Treasurer, Deputy Treasurer, Secretary, Director of Purchasing, Chief and Assistant Chief of the fire district.

Section 3. Applicability

This Code of Conflict applies to the members of the Board of Directors, the Officers and Employees of the fire district. The provisions of this code shall apply in addition to all laws, all regulations of the Board of Directors, all policies and procedures of the Board of Directors and the Chief of the fire district.

Section 4. Appearance of Impropriety

No officer or employee of the fire district shall create an appearance of impropriety, by giving the impression that he or she will exercise or perform his or her official duties on the basis of family, private business or social relationships or any consideration other than the welfare of the fire district.

Section 5. Use of position for personal or private gain

- a. No officer or employee of the fire district may use his or her position to secure unwarranted personal or private gain for himself or herself, or for any other person or any organization. Unwarranted personal or private gain does not include any payment, benefit or opportunity that is available to any of the following groups of people:
 - i. All officers, employees of the fire district
 - ii. All members of the of the fire district board
 - iii. All of the eligible residents of the fire district or a duly established zone of the fire district
 - iv. The general public
- b. No officer or employee of the fire district may use or permit the use of fire district resources for personnel or private purposes. Fire district resources include, but are not limited to, use of fire district personnel, use of fire district money, vehicles, equipment, materials, supplies or other property.
- c. No officer or employee of the fire district shall cause the fire district to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.
- d. This section does not prohibit an officer, employee or fire district member from:
 - i. Responding to a fire or other emergency
 - ii. Voting to approve the fire district's annual budget
 - iii. Authorizing or receiving lawful compensation for services as an officer or employee of the fire district
 - iv. Authorizing or receiving lawful payment or reimbursement for actual and reasonably necessary expenses incurred by an officer, employee of fire district member in the performance of his or her official duty
 - v. Authorizing or receiving lawful benefits as a fire district member including, but not limited to, service awards, group life insurance and benefits under the Volunteer Firefighters Benefit Law
 - vi. Authorizing or receiving payments under a lawful fire district contract
 - vii. Using fire district personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law
 - viii. Performing a mandatory function that does not require the exercise of discretion

Section 6. Disclosure of interest legislation

- a. Every officer and employee of the fire district, must disclose the nature of any interest, in any matter coming before the board of directors for action, which any of the following people have:
 - i. The officer, employee or fire district member
 - ii. A family member of the officer, employee or fire district member
 - iii. A family member of the spouse of the officer, employee or fire district member
- b. For purposes of this section, a "matter coming before the board of directors for action" means a motion, resolution or any other issue or question requiring a vote of the board
- c. The disclosure required by this section must be in writing and must be made publicly to the board of directors. The board of directors must cause the disclosure to be included in the minutes of the meeting at which the disclosure is made

- d. Disclosure is not required with respect to interests in the following actions by the board of directors:
 - i. Adoption of the fire district's annual budget
 - ii. Authorization of lawful compensation for services as an officer or employee of the fire district
 - iii. Authorization of lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee or fire district member in the performance of his or her official duty
 - iv. Authorization of lawful benefits to the members of the fire district including, but not limited to, service awards, group life insurance and benefits under the Benefit Law

Section 7. Recusal and abstention

- a. Except as otherwise required by law, no member of the board of directors, officer and employee of the fire district, may participate in the discussion or vote on any matter, exercise or perform any other official powers or duties in connection with any matter when any of the following people have an interest in the matter:
 - i. The officer, employee or fire district member
 - ii. A family member of the officer, employee or fire district member
 - iii. A family member of the spouse of the officer, employee or fire district member
- b. In the event that subdivision (a) of this section prohibits an officer, employee or fire district member from exercising or performing his or her official powers or duties:
 - i. If the officer has a deputy who is not prohibited by subdivision (a) from exercising or performing the power or duty, the deputy shall exercise or perform the power or duty
 - ii. In all other cases, the officer, employee or fire district member must refer the matter to his or her immediate supervisor or, if the person does not have an immediate supervisor, the officer, employee or fire district member must refer the matter to the board of directors
- c. When a matter is referred to a person's immediate supervisor or to the board of directors pursuant to subdivision (b) of this section, the power or duty shall be exercised or performed by the immediate supervisor or board of directors may delegate the power or duty to one or more persons who are authorized to perform the function and not prohibited from doing so by subdivision (a) of this section
- d. This section does not prohibit an officer, employee or fire district member from performing a mandatory function that does not require the exercise of discretion

Section 8. Holding of investments in conflict with official duties

- a. No officer or employee of the fire district may hold the following investments:
 - i. Personal investments that will be directly affected by the exercise or perform of the person's official powers and duties
 - ii. Personal investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties
- b. This section does not prohibit an officer, employee or fire district member from owning any of the following assets:
 - i. Real property located within the fire district or any other area served by the fire district and used as his or her personal residence
 - ii. Less than five percent of the stock of a publicly traded corporation
 - iii. Bonds or notes issued by the fire district and acquired more than one year after the date on which the bonds or notes were originally issued

Section 9. Private employment in conflict with official duties

- a. No officer or employee of the fire district may accept employment or engage in any business or professional activity which:
 - i. Impairs the person's independence of judgment in the exercise or performance of his or her official powers and duties
 - ii. Is likely to require disclosure of confidential information gained by reason of serving as an officer, employee or fire district member
 - iii. Requires representation of a person or organization other than the fire district in connection with litigation, negotiations or any other matter to which the fire district is a party
- b. No officer or employee of the fire district may:
 - i. Represent another person or organization before the board of directors or any other body of officer of the fire district
 - ii. Render services to another person or organization in relation to any matter which must come before the board of directors or any other body of officer of the fire district
 - iii. Render services to another person or organization in relation to any matter which is pending before the board of directors or anybody or officer of the fire district
- c. This section does not prohibit an officer, employee or fire district member from:
 - i. Representing himself or herself, or his or her spouse or minor children before the board of directors or anybody or officer of the fire district
 - ii. Asserting a claim against the fire district on his or her own behalf, or on behalf of his or her spouse or minor children
 - iii. Performing services pursuant to a lawful and duly authorized contract with the fire district, provided, that if the consideration payable under the contract exceeds \$1000, the contract was awarded through competitive bidding or some other competitive process

Section 10. Future employment

- a. No officer or employee of the fire district, for the two year period after serving as such officer, employee or district member, ma:
 - i. Represent another person or organization before the board of directors or any other body or officer of the fire district
 - ii. Render services to another person or organization in connection with any matter which must come before the board of directors or anybody or officer of the fire district
 - iii. Render services to another person or organization in connection with a matter which is pending before the board of directors or any other body or officer of the fire district
- b. No officer or employee of the fire district at any time after serving as such officer, employee or fire district member, may appear , practice or render services to another person or organization in connection with any particular matter in which he or she personally participate while serving as an officer, employee or fire district member
- c. This section does not prohibit an officer, employee or fire district member from:
 - i. Representing him or herself, or his or her spouse or minor children before the board of directors or anybody or officer of the fire district

- ii. Asserting a claim against the fire district on his or her own behalf, or on behalf of his or her spouse or minor children; or
- iii. Performing services pursuant to a lawful and duly authorized contract with the fire district, provided, that if the consideration payable under the contract exceeds \$1000, the contract was awarded through competitive bidding or some other competitive process

Section 11. Confidential Information

No officer or employee of the fire district who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose such information unless the disclosure is required in the course of exercising or performing his or her official powers and duties

Section 12. Gifts

- a. No officer or employee of the fire district may directly or indirectly solicit any gift
- b. No officer or employee of the fire district may accept or receive any gift or multiple gifts from the same donor having an aggregate value of seventy-five dollars or more when:
 - i. It appears that the gift is intended to influence the officer, employee or fire district member in the exercise or performance of his or her official duties
 - ii. The gift could reasonably be expected to influence the officer, employee or fire district member in the exercise or performance of his or her official powers or duties
 - iii. The gift is intended as a reward for any official action on the part of the officer, employee or fire district member
- c. For purposes of this section, a “gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceeded seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer, employee or member during the twelve month period preceding the receipt of the most recent gift.
- d. A gift from a person or organization that seeks to contract with the fire district is presumed to be a gift that is intended to influence an officer, employee of the fire district member in the exercise or performance of his or her official powers or duties. A gift from a person or organization that has a contract with the fire district or has had a contract with the fire district during the preceding twelve months is presumed to be a gift intended as a reward for official action.
- e. This section does not prohibit:
 - i. Gifts made to the fire district
 - ii. Fund raising activities authorized by and pursuant to section 204-a of the General Municipal Law
 - iii. Gifts from a person with a family or personal relationship with the officer, employee or fire district member when the circumstances make it clear that it is that personal relationship, rather than the recipient’s status as an officer, employee or fire district member, that is the primary motivation factor for the gift
 - iv. Gifts that are modest, reasonable and customary, given on special occasions, such as marriage, illness or retirement
 - v. Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads and calendars

- vi. Awards and plaques having a value of seventy-five dollars or less which are publicly presents presented in recognition of service as an officer, employee or fire district member, or other service to the community
- vii. Payments of rewards authorized by law

Section 13. Posting and Distribution

- a. The board of directors must promptly cause a copy of this code of conflict and a copy of the amendment to this code of conflict, to be posted publicly and conspicuously in each building under the fire district control. The code of conflict must be posted within ten days following the date on which the code takes effect. An amendment to the code of conflict must be posted within ten days following the date on which the amendment takes effect
- b. The chairperson of the board of directors must promptly cause a copy of this code of conflict, including ant amendments to the code, to be distributed to every person who is or becomes an officer and employee of the fire district
- c. Every officer, employee and fire district member who receives a copy of this code of conflict or an amendment to the code must acknowledge such receipt in writing. Such receipts must be filed with the secretary of the fire district who must maintain such receipts as a public record
- d. The failure to post this code of conflict or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of an officer, employee or fire district member to receive a copy of this code of conflict or an amendment to the code or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code

Section 14. Effective date

Any officer, employee or member who violates this code of conflict may be fines, suspended, removed from office, employment or membership in the fire district in the manner provided by law. A violation of this code is deemed “misconduct”

Section 15. Effective date

This code of conflict takes effect on the _____ day of _____, two thousand fourteen and continues in full force and effect until terminated or as amended by the board of directors.