Chapter 13

ETHICS

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[HISTORY: Adopted by the Town Board of the Town of Red Hook 12-30-2008 by L.L. No. 9-2008.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 6.
Officers and employees — See Ch. 25.

ARTICLE I
General Provisions

§ 13-1. Title.

This chapter shall be known as the "Ethics and Disclosure Law of the Town of Red Hook."

§ 13-2. Purpose.

The purposes of this chapter are to:

1. **Editor's Note: This local law also superseded former Ch. 13, Ethics, adopted 10-11-2005 by L.L. No. 4-2005.**

A. Establish standards of ethical conduct for officers, employees and consultants of the Town;

B. Provide officers, employees, and Board and committee members and consultants of the Town, whether elected or appointed, paid or volunteer, with clear guidance on such standards;

C. Promote public confidence and integrity in the agencies and administrative offices of our local government;

D. Facilitate the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people by requiring public disclosure of financial interests that may influence or be perceived to influence the actions of Town officers and employees; and

E. Provide for the fair and effective administration of this chapter.

§ 13-3. Statutory authority; construal of provisions; effect on prior chapter.

A. This chapter is enacted pursuant to § 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.

B. The standards, prohibited acts and procedures established within this chapter are in addition to any prohibited acts, conflicts of interest, provisions or procedures prescribed by statutes of the State of New York and also in addition to common-law rules and judicial decisions relating to the conduct of Town officers to the extent that the same are more severe in their application than this chapter.

C. This chapter shall supersede and replace Chapter 13, Ethics, of the Code of the Town of Red Hook (adopted 10-11-2005).

ARTICLE II
Definitions

§ 13-4. Terms defined.

Unless otherwise stated or unless the context otherwise requires, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

APPEAR and APPEAR BEFORE — Communicating in any form, including, without limitation, personally, through another person, by letter, by electronic device, or by telephone.

CUSTOMER or CLIENT — Any person for whom a Town officer or employee has directly supplied contractual goods/services during the previous 24 months. "Contractual goods/services" means any work performed or goods delivered by the Town officer or employee to another person under mutual agreement of the two parties and provided the two parties have finalized the transaction, without dispute. Retail sales shall be excluded from this provision.

ETHICS BOARD — The Ethics Board of the Town of Red Hook established pursuant to Article IV of this chapter.

FAMILY MEMBER — For purposes of this chapter, a person who is a spouse, child or stepchild, sibling, parent or grandparent of the officer or employee, or a member of the household of the officer or employee.

GIFT and FINANCIAL BENEFIT — Includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

MINISTERIAL ACT — An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

OFFICER OR EMPLOYEE — Any of the following:

A. A person who is employed by the Town, whether full- or part-time; and

B. An elected or appointed official of the Town, including a compensated or uncompensated board member, who is required to take and file an oath of office under the Public Officers Law. Such boards include, without limitation, the Town Board, the Zoning Board of Appeals, the Planning Board, the Ethics Board, and the Board of Assessment.

ARTICLE III
Code of Ethics

§ 13-5. Standards of conduct.

A. Conflicts prohibited. A Town officer or employee shall not use his/her official position or office or take or fail to take any action in a matter that he/she knows or has reason to know may provide a personal financial benefit or secure unwarranted privileges or exemptions for any of the following persons:

(1) A Town officer or employee;

(2) His/her outside employer, employee or business;

(3) A family member of the officer or employee;

(4) A customer or client.

B. Appearance of impropriety. A Town officer or employee must avoid circumstances that compromise his or her ability to make decisions solely in the public interest or that violate the spirit or intent of this Ethics Code.

C. Recusal and disclosure.

(1) A Town officer or employee shall promptly recuse himself/herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may benefit the persons listed above, or give the reasonable appearance of a conflict of interest or impropriety.

(2) Whenever a Town officer or employee is required to recuse, he/she must not deliberate, vote or participate in any way in such matter, and should physically step down from the board while the matter is being discussed or deliberated. The officer or employee should disclose the apparent conflict on the record of his or her board or in writing filed with the Town Clerk, and refrain from further participation in the matter.

(3) The Town of Red Hook purposely goes further than Article 18 of the General Municipal Law of the State of New York in the exclusion of participation and prohibition of voting of Town officers or employees who are directors, trustees, employees, consultants, or third-party contractors of any corporation, volunteer or membership organization, partnership or sole proprietary business, where such participation or vote involves a resolution, ordinance, local law, or amendment to such legislation, grant application, special use permit or subdivision application that results in any form of financial impact, developmental benefit or usage restriction for any such person or entity. Where the recusal results from the position of the board member as a director, trustee, employee or consultant of a not-for-profit corporation, volunteer or membership organization, however, the member shall be permitted to provide such information and assistance as may be requested by the Board.

D. Gifts.

(1) A Town officer or employee shall not accept or solicit any gift valued over $75, whether financial or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence such Town officer or employee in the performance of his/her official duties or was intended to be an award for any official action on his/her part. A Town officer or employee shall not request or accept anything from any person or entity other than the Town for doing his or her municipal job.

(2) The following are examples of what can be accepted:

(a) Reasonable and customary presents given on special occasions;

(b) Gifts given by someone based on a personal or family relationship;

(c) An invitation to attend a personal or private event with no connection to the Town; meals received when the officer or employee serves as a participant or speaker in a job-related professional or educational program and meals are available to all participants;

(d) Modest items of food or refreshment offered other than as part of a meal;

(e) Unsolicited advertisement or promotional material of little intrinsic value;

(f) Most awards and plaques presented in recognition of service;

(g) Rewards or prizes given to competitors in contests or events, including random drawings open to the public;

(h) Under some circumstances, meals, entertainment or hospitality, but not travel or lodging, from an applicant, vendor or contractor of the Town when participation in an event is for a Town purpose and related to official duties, that is, when participation will further Town programs, and the event is widely attended.

E. Representation before one's own board. A Town officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to:

(1) Any matter before such officer or employee;

(2) Before any board of which the Town officer or employee is a member; or

(3) Before any Town officer or employee or board over which he or she has jurisdiction or which he or she has power to appoint any officer or employee.

F. Representation in litigation. A Town officer or employee shall not represent any private interest in any litigation in which the Town of Red Hook is a party or complainant.

G. Representation before another board of the Town. A Town officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board, officer or employee of the Town where compensation is to be dependent or contingent on the outcome. This section does not prohibit the fixing of fees based upon the reasonable value of services rendered.

H. Confidential information. A Town officer or employee shall not disclose confidential information gained by reason of his/her official position or authority or use such information for any nonmunicipal purpose, even after leaving municipal service.

I. Political solicitation. A Town officer or employee shall not request or authorize anyone else to request any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

J. Revolving door. For a period of one year after termination of his/her term of office or employment with the Town, other than acting on behalf of himself/herself, no former Town official or employee may appear before any boards and commissions on which the former official or employee has represented the Town, in relation to any matter upon which he/she has had discretionary power during his/her term of office or employment with the Town, unless requested to provide information by the applicable board or commission. This prohibition shall include any appearance that would be prohibited while the officer or employee was in office.

K. Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate, or accept any interest, employment, or anything of value that would put them in violation of this Code of Ethics.

L. Inducement of others. No person or entity shall induce or aid an officer or employee of the Town to violate any of the provisions in this Code of Ethics.

M. Investments. A Town officer or employee shall not invest or hold any investment directly or indirectly in any business, financial, commercial or other private transaction that would create a conflict with his or her official duties.

N. Nepotism.

(1) Every applicant related to a Town officer or employee shall disclose such relationship in his or her application. Every Town officer or employee related to any person seeking employment with the Town shall disclose such relationship as provided in this section.

(2) Any officer or employee of the Town related to any person(s) seeking employment or making application before such officer or employee's board or department shall disclose such relationship as provided in this section.

(3) For purposes of this provision on nepotism, "related" shall mean a family member of the officer or employee, and any other relative by blood, marriage or adoption closer in degree than first cousin. Disclosure required by this section shall be made in writing filed with the Town Clerk and the person or board with appointing authority.

O. Use of public property. No officer or employee shall request or permit the use of Town-owned vehicles, equipment, materials or property, or Town letterhead or personnel for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such officer or employee in the conduct of official duties.

§ 13-6. Interest in contracts with Town.

A. Prohibited interests. Officers and employees are prohibited from entering into certain contracts with the Town pursuant to Article 18 of the General Municipal Law. Except as expressly provided in § 802 of Article 18 of the New York State General Municipal Law, no Town officer or employee shall have an interest in a contract that is prohibited by § 801 of the General Municipal Law. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable to the extent provided by § 804 of the General Municipal Law.

B. Disclosure of interests. Except as expressly provided in § 802 of Article 18 of the General Municipal Law, any Town officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the Town, shall publicly disclose the nature and extent of that interest in accordance with § 803 of the General Municipal Law. The Town Clerk shall promptly provide a copy of any such disclosure to the Ethics Board. Town officers or employees are required to recuse themselves pursuant to § 13-5C from any matter requiring disclosure under this section.

C. Violations. Any Town officer or employee who willfully and knowingly violates § 801 or 803 of the General Municipal Law shall be guilty of a misdemeanor, to the extent

provided by § 805 of the General Municipal Law. Any such violation shall be a violation of this Ethics Code.

§ 13-7. Applicant disclosure in land use applications.

A. Disclosure. Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town, shall disclose in its application, petition or request the name, residence, and nature and extent of any interest of a Town officer or employee and fully comply with § 809 of the General Municipal Law.

B. Violations. Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 809 of the General Municipal Law.

ARTICLE IV
Board of Ethics

§ 13-8. Establishment.

A. Membership. The Ethics Board shall consist of five members appointed by the Town Board.

B. Term of office. There is hereby established a Board of Ethics consisting of five members, to be appointed by the Town Board, who shall serve at the pleasure of the Town Board. The term of office for a member is five years, with terms to be staggered so that one member's term expires each year.

C. Maintenance and operation. There shall be funds appropriated annually by the Town Board toward the Ethics Board's maintenance and operation. Additional funds may be allocated as determined by the Town Board. The Ethics Board shall meet a minimum of two times a year.

D. Legal and advisory services.

(1) The Town Attorney or Attorney for the Town shall provide legal and advisory services to the Ethics Board as it may require in the performance of its duties. If the Town Attorney or Attorney for the Town has a potential conflict of interest, the Town shall make funds available for outside counsel.

(2) The Ethics Board shall be given access to other advisory services as needed from both the Town officials and outside resources. The Ethics Board shall determine when it requires outside, independent advisors and may seek said advice.

E. Compensation. Members shall serve without compensation and will be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

F. Board Chair. The Town Board shall annually designate the Chair of the Board of Ethics. The Chair or a majority of the Board may call a meeting of the Board.

G. Vacancies. A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.

H. Quorum. Three members of the Board are required for the purpose of conducting a meeting. A concurring vote of three members shall be required for the Board to take action.

I. Failure of duties or violations. An Ethics Board member may be removed from office by a majority vote of the Town Board for failure to fulfill the duties of the office or for violation of this chapter or other good cause. The Ethics Board member shall be given written notice and an opportunity for reply.

§ 13-9. Qualifications.

A. Residency. All members of the Ethics Board shall reside in the Town of Red Hook.

B. Political affiliations. No more than three members of the Ethics Board may be enrolled in the same political party. No member shall hold office in a political party.

C. Campaign participation. A member may make campaign contributions but not otherwise participate in any Town of Red Hook election campaign.

D. Town affiliations. One member may, but need not, be an appointed officer or employee of the Town. No more than two members shall hold an appointive office of the Town of Red Hook or be an employee of the Town of Red Hook. No members may hold elective office in the Town of Red Hook.

E. Members of the Ethics Board shall be chosen for their independence, integrity, civic commitment and high ethical standards.

F. This section is intended to supersede the provisions of Article 18, § 808, of the General Municipal Law regarding the composition of a municipal board of ethics.

§ 13-10. Powers and duties.

The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the Town of Red Hook, New York, with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant to such article, under such rules and regulations as the Board may prescribe. In addition, the Board may make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon request of the Town Board of the Town of Red Hook.

A. Authority. The Board of Ethics shall administer and enforce all the provisions of this chapter.

B. Organization. The Board of Ethics shall prescribe and promulgate rules and regulations governing its own organization and procedures.

C. Advisory opinions on request. The Board of Ethics shall render advisory opinions to Town officers and employees with respect to the application of the Town Code of Ethics to such officer or employee.

(1) When a request for an advisory opinion is received from an officer or employee of the Town, the Board of Ethics shall index the request and place it on a meeting agenda with reasonable promptness.

(2) The Board of Ethics may request additional oral or written information from the requesting officer or employee.

(3) Advisory opinions shall be based on the applicable provisions of the Town Ethics Code.

(4) A copy of any written advisory opinion shall be provided to the requesting officer or employee. Such advisory opinions shall be nonbinding and shall be confidential to the extent permitted by law.

(5) The Board of Ethics may from time to time informally advise officers and employees regarding the provisions of the Ethics Code.

D. Third party complaints. The Board of Ethics shall review and render advisory opinions to the Town Board with respect to a third party complaint alleging a violation of the Town Code of Ethics.

(1) Any third party complaint must be signed and duly sworn, under penalty of perjury, by the individual complainant and must include his or her residence address.

(2) When a complaint is received, the Board of Ethics shall index the complaint and place it on a meeting agenda for discussion with reasonable promptness. The Board shall promptly provide a copy of the complaint to the employee or officer who is the subject of the complaint, except in the discretion of the Board where the complaint has been summarily dismissed or where the matter has been referred for criminal investigation.

E. Board review on own motion. The Board may proceed on its own motion to review compliance with the provisions of the Town Code of Ethics, and may provide advisory opinions in accordance with the procedure for the consideration of complaints.

F. Reasonable cause findings.

(1) If the Ethics Board preliminarily finds by its own review, upon the written request of any individual officer or employee, receipt of a complaint, or pursuant to an investigation initiated by the Ethics Board in carrying out the provisions of this chapter, that a possible violation of this chapter exists, the Ethics Board may, but shall not be required to, provide the person(s) affected with a reasonable

opportunity, not to exceed 30 days, to cure such violation. Such a preliminary finding shall be confidential and not subject to public disclosure.

(2) If, following its investigation and hearing, the Ethics Board determines that there is reasonable cause to believe that a violation of this chapter has occurred, and after any grace period granted by the Ethics Board has expired and such violation remains uncured, it shall send an advisory notice of reasonable cause to the applicable officer or employee (except in the discretion of the Ethics Board where the matter has been referred for criminal investigation) and the Town Board.

(3) Before any such "reasonable cause" finding shall be made, the Ethics Board shall:

(a) Notify, in writing, the affected officer or employee as to the possible or alleged violation of this chapter;

(b) Afford the affected officer or employee an opportunity to submit a written response setting forth such information as said person deems relevant to the alleged violation of this chapter; and

(c) Upon written request, afford the affected officer or employee a hearing wherein said person may provide either a written or oral response setting forth such information as the officer or employee deems relevant to the alleged violation. Notice of such hearing shall be provided not less than 10 days prior to the hearing and such hearing may be adjourned from time to time as determined by the Ethics Board.

(4) The Ethics Board may determine that the complaint is unfounded, or that the alleged violation has been adequately remedied, and in such event no further action is required. The Ethics Board shall maintain a record of the disposition of written complaints.

(5) The Board of Ethics may waive noncompliance (other than with §§ 801 and 803 of the General Municipal Law) in the best interests of the Town, where enforcement would frustrate the purposes of this chapter.

(6) The Board of Ethics may request additional oral or written information from a complaining party or from the affected officer or employee. Following a hearing, if requested, the Ethics Board may render an advisory opinion to the Town Board regarding whether there is reasonable cause to find that a violation of the Town Ethics Code has occurred and remains uncured. Advisory opinions shall be based on the applicable provisions of the Town Ethics Code and the factual findings of the Board of Ethics. A copy of any written advisory opinion of reasonable cause shall be sent to the affected officer or employee and to the Town Board.

G. Subpoena powers. The Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. Subpoenas may be issued pursuant to § 2302(a) of the Civil Practice Law and Rules for the witness testimony, documents and other evidence deemed necessary by the Board.

H. Recommendation of action to be taken. The Board of Ethics may make a recommendation to the Town Board as to the appropriate sanction, discipline or other action to be taken or imposed with respect to any finding or determination of reasonable cause to believe that a violation of this chapter has occurred.

I. Annual report. The Ethics Board shall prepare and submit an annual report to the Town Board summarizing the activities of the Ethics Board, listing any recommended changes to the text or administration of this chapter.

J. Public inspections. The Board of Ethics shall provide for public inspection of certain records through the Town's Records Access Officer,

(1) The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other state or federal law or regulation.

(2) No meeting or proceeding of the Ethics Board concerning a particular Town officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

K. Public education. The Board of Ethics may conduct and/or arrange for a qualified person to conduct annual training for Town officers and employees regarding the provisions of this chapter.

L. Monitoring. The Board of Ethics shall monitor officer and employee compliance with decisions and recommendations made by the Ethics Board.

M. Designation of powers and duties. The Ethics Board shall not carry out the powers and duties as defined in this section if it is determined that two members of such Board have a conflict of interest. In this event, the Ethics Board of Dutchess County shall administer the duties of the Ethics Board of the Town of Red Hook.

§ 13-11. Disciplinary action.

In its discretion, after a hearing providing for due process procedural mechanisms to the extent required by law, and subject to any applicable provisions of law and collective bargaining agreements, the Town Board may take disciplinary action, including without limitation a warning, reprimand, suspension or removal from office or employment, impose a civil fine as provided in this chapter, or subject the Town officer or employee to any other sanctions permitted by law. The Town Board shall conduct and complete any required hearing with reasonable promptness.

§ 13-12. Hearing procedure and representation.

All hearings required to be conducted by the Board of Ethics pursuant to this chapter shall be conducted in accordance with the provisions of procedural rules approved by the Board of Ethics and filed in the office of the Town Clerk. Any person compelled to appear in person or

who voluntarily appears shall be accorded the right to be accompanied, represented by, and/or advised by counsel.

ARTICLE V
Administration

§ 13-13. Distribution and posting.

A. Within 90 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Town Clerk of the Town of Red Hook, in a form suitable for posting, copies of those provisions of this chapter which the Ethics Board deems necessary for posting in the Town. Within 10 days after receipt of those copies, the Town Clerk shall cause the copies to be posted conspicuously where public notices are generally posted.

B. Within 90 days after the effective date of this section, and thereafter as appropriate, the Town Board of Red Hook shall transmit to the officers and employees, in a form suitable for distribution, copies of those provisions of this chapter which the Ethics Board deems necessary for distribution to the officers and employees of the Town. The Town Board shall cause the copies to be distributed to every officer and employee of the Town and make them readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within 10 days after entering upon the duties of his or her position. Every Town officer or employee elected or appointed shall upon receipt of said chapter sign a receipt stating that he/she has received a copy of said chapter. This receipt shall be filed with the Town Clerk.

C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.

§ 13-14. Judicial review.

Any person aggrieved by any action of the Town Board pursuant to this chapter may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York or as otherwise permitted by law.

§ 13-15. Supersession of General Municipal Law § 808.

Wherever the requirements of this chapter are inconsistent with the provisions of § 808 of the General Municipal Law, the more restrictive provision, or those imposing higher standards, shall govern.

§ 13-16. Maintenance of certain rights; severability.

A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.

B. Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself/herself or any member of his/her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this chapter.

§ 13-17. Penalties for offenses.

In addition to any penalty contained in any other provision of this chapter, any person who shall knowingly and intentionally violate any of the provisions of this chapter may be subject to a fine not to exceed $1,000 per violation, suspended or removed from office or employment.

Supervisors Assistant

Distribution List Name: Ethics Committee

Members:

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