

**The
Town of
Cheektowaga**

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November 22, 2011

Martin J. Mack, Esq.
Executive Deputy Attorney General
Division of Regional Affairs
Office of the Attorney General
The Capitol
Albany, NY 12224

Re: Town of Cheektowaga Code of Ethics

Dear Mr. Mack:

In response to your letter dated November, 2011 to the Town of Cheektowaga Supervisor, be advised that the Town of Cheektowaga does have a Code of Ethics and other policies concerning conduct of Town employees. In connection with this matter, enclosed herewith please find copies of the following documents:

1. Town of Cheektowaga Code of Ethics;
2. Town of Cheektowaga Whistleblower Policy;
3. Town of Cheektowaga Policy Relating to Misuse of Town Resources;
4. Town of Cheektowaga Policy Relating to Hiring/Supervising Relatives.

Furthermore, be advised that, in 2009-10, the New York State Comptrollers Office audited the Town's Ethics Law and issued its report on same on March 18, 2010. The above referenced policies were adopted by the Cheektowaga Town Board in response to said report.

Very truly yours,

TOWN OF CHEEKTOWAGA
DEPARTMENT OF LAW

Kevin G. Schenk
Town Attorney

Encl.

Cc: Supervisor Mary F. Holtz

*Town of Cheektowaga, NY
Monday, November 21, 2011*

Chapter 18. ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Cheektowaga as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 12.
Officers and employees — See Ch. 25.

Article I. General Provisions

[Adopted 10-21-1985 as Ch. 24, Art. I, of the 1985 Code]

§ 18-1. Purpose; interpretation.

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Cheektowaga recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this article to promulgate these rules of ethical conduct for the officers and employees of the Town of Cheektowaga. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Cheektowaga. The rules of ethical conduct of this code, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 18-2. Definitions.

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

INTEREST

A pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE

An officer or employee of the Town of Cheektowaga, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

§ 18-3. Standards of conduct.

Every officer or employee of the Town of Cheektowaga shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not directly or indirectly solicit any gift or accept or receive any gift having a value of \$25 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be

expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.

- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He 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 municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He 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 agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest. To the extent that he or she knows thereof, a member of the Town Board and any officer or employee of the Town of Cheektowaga, whether paid or unpaid, who participates in the discussion or gives an official opinion to the Town Board on any legislation or action before the Town Board or who has a direct or indirect input or involvement in any transaction involving the town shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation or transaction.

[Amended 1-19-1993]

- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Appearance before board or agency after termination of employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Cheektowaga in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.
- I. Use of information for financial or personal gain. He- or she shall not use any information acquired in the course of his or her official duties or take any action to advance the financial or other private interest of himself, herself or any other person.

[Added 1-19-1993]

§ 18-4. Claims for personal injury or property damage not barred.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of Cheektowaga or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 18-5. Community Development Block Grant Housing Rehabilitation Loan Program.

A. The purpose of this section is to establish policy guidelines for participation in the town's Housing Rehabilitation Loan Program by town employees. It is essential that the Community Development Block Grant Housing Rehabilitation Loan Program remain completely devoid of any taint or suggestion of corruption, abuse or wrongdoing in the authorization or issuance of loans for housing rehabilitation. Thus, in the interest of preserving the integrity of the town's Community Development Block Grant Housing Rehabilitation Loan Program and of avoiding the occurrence or appearance of conflict of interest, the following policy guidelines shall be applied without exception to any employee of the town seeking assistance under said loan program. Further, these policy guidelines are based on the certifications submitted annually to the Department of Housing and Urban Development by the town for receipt of community development block grant funds. Section (h) of these certifications reads:

"No member, officer or employee of the grantee or its designees or agents, no member of the governing body of the locality in which the program is situated and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in any contract or subcontract or the process thereof for work to be performed in connection with the program assisted under the grant, and that it shall incorporate or cause to be incorporated in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification."

B. Guidelines.

- (1) An individual shall not be eligible for participation in the Housing Rehabilitation Loan Program if he/she is responsible for review or approval of applications filed for loans or has an influence on the formation and execution of housing rehabilitation loan program policy. Those specifically excluded are Town Board members and the Director of Community Development.
- (2) An individual shall not be eligible for participation in the Housing Rehabilitation Loan Program if he/she is responsible for inspection, approval or verification of work performed under said loan program or for vouchers submitted for payment through said loan program. Those specifically excluded are Housing Inspectors and the Supervising Accountant.
- (3) The spouse and direct blood relatives of personnel responsible for or having an influence on the formation and execution of policy in relation to the Housing Rehabilitation Loan Program, residing within the household of said person, shall not be eligible for participation in said loan program.
- (4) In instances where the eligibility of an individual is not clearly defined or where eligibility appears questionable, the Town Community Development Director shall forward a letter to the individual or the department at the Department of Housing and Urban Development responsible for determining if a conflict of interest exists for its review of said case. The information provided to the Department of Housing and Urban Development will be descriptive in nature and will include facts essential and necessary to render an opinion.

§ 18-6. Disclosure of interests by elected officials and department heads.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUSINESS INTERESTS

Includes any interest, direct or indirect, which an individual has in any corporation, firm, partnership, sole proprietorship or other organization or company doing business in the State of New York.

INVESTMENT

Includes any other interest which an individual has in which said individual committed money for future advantage, benefit or profit, including any and all interests in real estate (except his or her private residence) which is situate in the Town of Cheektowaga; but does not include bank accounts, checking accounts, individual retirement accounts or like investments.

OUTSIDE EMPLOYMENT

Includes all activity in which an individual is engaged wherein he or she receives compensation on a regular basis (other than for the town); but does not include a listing of all persons, firms, etc., who hire said individual to act as an independent contractor to perform a specific piece of work.

- B. All elected officials and salaried department heads of the town, as hereinafter listed, shall file with the Town Clerk a disclosure of all outside employment, business interests and investments (other than ownership of less than 5% of the stock of a publicly held corporation).
- C. Such disclosure shall be open to public inspection and shall be revised by such elected officials and department heads, from time to time, so as to reflect any changes in their outside interests.
- D. All such elected officials and department heads shall file such disclosure within 30 days after confirmation of an appointment or employment or within 30 days after the adoption of this section, whichever is later.
- E. The following elected officials and salaried department heads of the town shall be required to file such disclosure:
 - (1) Elected officials: Supervisor, Deputy Supervisor, Councilmen, Town Clerk, Receiver of Taxes, Town Justices and Highway Superintendent.
 - (2) Department heads: Town Attorney; Town Engineer; Building and Plumbing Inspector; Assessor; Foreman, Sanitation Department; General Foreman, Central Garage; Chairman, Planning Board; Health Officer; Supervising Accountant; Chief of Police; Director, Facilities Department; Coordinator, Senior Services Department; Director, Youth Bureau; Chairman, Zoning Board; Community Development Director; and Director, Recreation Department.

§ 18-7. Distribution of Code of Ethics.

The Supervisor of the Town of Cheektowaga shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the town within 20 days after the effective date of this article. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. A copy of this Code of Ethics will also be posted conspicuously on the bulletin board maintained by the Town Clerk in the Town Hall building; and a copy of this Code of Ethics shall also be posted in the Sanitation Department building, the incinerator building, the Highway Department building, the parks and recreation garage building, Disposal Plant Nos. 3 and 5 and the Police Department building. This Code of Ethics shall be posted in said buildings within 20 days after the effective date of this article and shall remain posted for a period of not less than 30 days.

§ 18-8. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

§ 18-9. Effective date.

This Code of Ethics shall take effect on November 10, 1970.

Article II. Additional Provisions

[Adopted 4-5-1993 by L.L. No. 1-1993; amended in its entirety 4-18-1994 by L.L. No. 1-1994]

§ 18-10. Purpose.

The purpose of this article is to promulgate a form of annual statement of financial disclosure which is designed to assure disclosure by certain municipal officers and employees and to assure disclosure by elected officials of such financial information as is determined by this Town Board, to continue the use of an authorized form of annual statement of financial disclosure in use on the date when such article is adopted and to designate the Board of Ethics of the Town of Cheektowaga as the Board to receive and review such filing.

§ 18-11. Enactment.

This article is being enacted pursuant to § 811, Subdivision 1, and § 812, Subdivision 3, of the General Municipal Law and any other applicable section of the General Municipal Law of the State of New York and is enacted pursuant to the authority granted therein by the State of New York to the Town of Cheektowaga.

§ 18-12. Definitions.

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

LOCAL ELECTED OFFICIAL

An elected official of the town, except Judges or Justices of the Unified Court System.

LOCAL OFFICER OR EMPLOYEE

The heads (other than local elected officials) of any agency, department, division, council, board, commission or bureau of the Town of Cheektowaga and their deputies and assistants and the officers and employees of the town departments, divisions, boards, bureaus, commissions or councils who hold policy-making and advisory positions, as annually determined by the Town of Cheektowaga and as set forth in a written instrument which shall be filed with the Board of Ethics during the month of February, except that the term "local officer or employee" shall not mean a Judge, Justice, officer or employee of the Unified Court System.

RELATIVE

Such individual's spouse, child, stepchild, stepparent or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

SPOUSE

The husband or wife of the reporting individual, unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to a judicial order, decree or judgment or a legally binding separation agreement.

UNEMANCIPATED CHILD

Any son, daughter, stepson or stepdaughter who is under the age of 18, unmarried and living in the household of the reporting individual.

§ 18-13. Board of Ethics established; term of office; vacancies; removal.

A. A Board of Ethics is established and shall be known as the "Town of Cheektowaga Board of Ethics."

- B. The Board of Ethics shall consist of five members, who shall serve five-year terms of office, one such term expiring each year. Members shall be appointed by the Town Board. The Town Attorney shall serve as an ex officio member of the Board of Ethics. In the event that a vacancy occurs prior to the expiration of the five-year term, such vacancy shall be filled for the balance of such term in the same manner as members are appointed to full terms. All members shall reside within the Town of Cheektowaga. All members shall serve without compensation, except that any member who is a Town of Cheektowaga officer or employee shall be entitled to his usual compensation when attending upon the business of the Board during normal working hours.
- C. No more than three members of the Board may be affiliated with the same political party. No member of the Board of Ethics may hold any position in any political party (including committeeman). For purposes of this section, "political party" shall mean any political party which appears on the ballot in the last biennial town election. The members shall elect a Chairman from among themselves and such other officers as may be deemed necessary from time to time.
- D. A Board of Ethics member may be removed by the Town Supervisor with the approving consent of not less than five members of the Town Board, after a finding of substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of the office or violation of this article, after written notice of the charges and an opportunity for reply.
- E. The Town Clerk shall be the Clerk of the Board of Ethics, and all documents filed with the Town Clerk shall be deemed, for the purposes of this article, to be filings with the Board of Ethics.
- F. The Board of Ethics shall have all the, powers and duties as prescribed by Article 18 of the General Municipal Law. The Board of Ethics may adopt and amend such rules or procedures as are appropriate.

§ 18-14. Disclosure of financial status.

[Amended 4-4-2011 by L.L. No. 1-2011]The Town of Cheektowaga recognizes that matters of finance do exist which are so personal in nature and are so unrelated to the performance of public employees' duties that no useful purpose can be served by such disclosure. Nonetheless, certain financial information may be relevant to a public official or employee's duties and may impact the integrity of the town government. To that extent:

- A. Those town officers and employees who are so designated from time to time by Town Board resolution shall file with the Board of Ethics of the Town of Cheektowaga annually, on or before May 15 of every year following the enactment of this article, during the term of their office, a statement of their financial holdings, assets, liabilities and net worth. The time for filing such statement may be extended pursuant to the rules of the Board of Ethics for justifiable cause and for undue hardship upon application to the Board of Ethics pursuant to the rules and regulations set forth in this article and, if applicable, to §§ 811, 812 and 813 of the General Municipal Law of the State of New York.
- B. In addition to those officers and employees referenced herein in § 18-14A, any local officer or employee who is determined by the Town Board to be a policymaker or perform any of the duties listed in § 18-15A(9)(a) through (d) shall be required to file a financial disclosure statement.
- C. The designated officers and employees and elected officials shall file with the Board of Ethics a disclosure statement answering each and every question. The statement shall be in the form established by the Board of Ethics.

§ 18-15. Powers and duties.

A. The Board of Ethics shall have the power to:

- (1) Adopt, amend and rescind rules and regulations to govern procedures of the Board of Ethics, which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the Board of Ethics may request an additional period of time within which to file such statement due to justifiable cause or undue hardship. Such rules and regulations shall provide for a date beyond which, in all cases of justifiable cause or undue hardship, no further extension of time will be granted. The Board of Ethics may utilize or modify such rules and regulations or adopt separate rules and regulations for the purpose of Subdivision 1(d) of § 811 of the General Municipal Law.
- (2) Promulgate guidelines to assist the Town Board in determining which persons hold policy-making positions for purposes of §§ 811 and 812, Subdivision 3, of the General Municipal Law and this article.
- (3) Make available forms for annual statements of financial disclosure required to be filed pursuant to this article.
- (4) Review completed financial disclosure statements in accordance with the provisions of this article, the rules and regulations of the Board of Ethics and any local law, ordinance or Code of Ethics established by the Town Board of the Town of Cheektowaga.
- (5) Receive complaints alleging a violation of this article or a violation of the criteria for reporting requirements established by this article, the Code of Ethics of the Town of Cheektowaga or any local law, ordinance or resolution regarding the filing of completed statements with the Board of Ethics.
- (6) Permit any person required to file a financial disclosure statement to request that the Board of Ethics delete from the copy thereof made available for public inspection one or more items of information, which may be deleted by the Board of Ethics upon a finding that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the Board of Ethics, in its notification of denial, shall inform the person of his or her right to appeal the Board's determination pursuant to the rules governing adjudicatory proceedings and appeals adopted pursuant to this article and any applicable section of the General Municipal Law. The Board of Ethics shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals.
- (7) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children, which item or items may be exempted by the Board of Ethics upon a finding by the majority of the total members of the Board of Ethics, without vacancy, that the reporting individual spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties.
- (8) Advise and assist any local official in establishing rules and regulations relating to possible conflicts between the private interests and official duties of present or former elected officials, local party officials and local officers and employees.
- (9) Permit any person who has not been determined by the Town Board to hold a policy-making position but who is otherwise required to file a financial disclosure statement to

request an exemption from such requirement in accordance with the rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of the individual or on behalf of persons who share the same job title or employment classification which the Board of Ethics deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the Board of Ethics, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of.

- (a) Contracts, leases, franchises, revocable consents, concessions, variances, special permits or licenses as defined in § 73 of the Public Officers Law.
 - (b) The purchase, sale, rental or lease of real property, goods or services or a contract therefor.
 - (c) The obtaining of grants of money or loans.
 - (d) The adoption or repeal of any rule or regulation having the force and effect of law.
- (10) Prepare an annual report to the Supervisor and the Town Board summarizing the activities of the Board of Ethics and recommending changes in the laws governing the conduct of local elected officials and officers and employees of the town covered by this article.
- (11) Act as a repository for completed financial disclosure forms filed pursuant to this article.
- B. Upon certification of a question by the Town Board to the Ethics Board, the Board may determine a question common to a class or defined category of persons or items of information required to be disclosed where determination of the question will prevent undue repetition of requests for exemption or deletion or will prevent undue complication in complying with the requirements of this article.
- C. The Board of Ethics shall inspect all financial disclosure statements filed with the Board of Ethics to ascertain whether any person subject to the reporting requirements of this article, the Code of Ethics or any local law, ordinance or resolution has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of this article, the Code of Ethics or any law, ordinance or resolution of the Town of Cheektowaga.
- D. The Board of Ethics shall have all necessary authority to enforce the filing requirements of this article, including the authority to promulgate such rules and regulations as the Board of Ethics determines are necessary to implement this article. The Board of Ethics shall be authorized to review requests for exceptions with respect to complying with timely filing of such disclosure statements due to justifiable cause or undue hardship.
- E. The Board of Ethics shall have the power to retain or hire legal counsel to advise it on any matter arising under this article.
- F. The Board of Ethics shall have the right to inspect any written disclosures of interest filed pursuant to § 18-3 of the Code of the Town of Cheektowaga (Code of Ethics).

§ 18-16. Failure to file report or filing incomplete reports.

If a person required to file a financial disclosure statement with the Board of Ethics has failed to file a disclosure statement or has filed a deficient statement, the Board of Ethics shall notify the reporting person, in writing, shall state the failure to file or detail the deficiency, shall provide the person with a fifteen-day period to cure the deficiency and shall advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make

such filing or fails to cure the deficiency within the specified time period, the Board of Ethics shall send a notice of delinquency to the reporting person and to the appointing authority for such person.

§ 18-17. Violations; conflicts of interest.

- A. If a reporting person has filed a statement which reveals a possible violation of the duly adopted Code of Ethics of the Town of Cheektowaga, or of any local law, ordinance or resolution or if the Board of Ethics receives a sworn complaint alleging such a violation or if the Board of Ethics determines, on its own initiative, to investigate a possible violation, the Board of Ethics shall notify the reporting person, in writing, shall describe the possible or alleged violation of such Code of Ethics, local law, ordinance or resolution or of this article and shall provide the person with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the Board of Ethics thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The Board shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the Board determines, at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any. All of the foregoing proceedings shall be confidential.
- B. If the Board determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause to the reporting person, to the complainant, if any, and to the Town Board of the Town of Cheektowaga.

§ 18-18. Penalties for offenses.

A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully, with intent to deceive, makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this article shall be assessed a civil penalty in an amount not to exceed \$10,000. Assessment of a civil penalty hereunder shall be made by the Board of Ethics with respect to the persons subject to its jurisdiction. For a violation of this article, other than for conduct which constitutes a violation of Subdivision 12 of § 73 of the Public Officers Law, the Board of Ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of value or amount reported hereunder is incorrect, unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for a failure to file or for a false filing of such statement, except that the Town Board of the Town of Cheektowaga may impose disciplinary action as otherwise provided by law. The Board of Ethics shall be deemed to be an agency within the meaning of Article 3 of the State Administrative Procedure Act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized. Such rules, which shall not be subject to the approval requirements of the State Administrative Procedure Act, shall provide for due process procedural mechanisms substantially similar to those set forth in such Article 3, but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition, with respect to the assessment of such penalty, and upon becoming final, shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the Board of Ethics, pursuant to Article 78 of the Civil Practice Law and Rules.

§ 18-19. Copy of notice.

A copy of any notice of delinquency or notice of reasonable cause sent pursuant to this article shall be included in the reporting person's file and shall be available for public inspection.

§ 18-20. Advisory opinions.

Upon written request from any person who is subject to the jurisdiction of the Board of Ethics, the Board of Ethics shall render advisory opinions on the requirements of said provisions. An opinion rendered by the Board of Ethics, until and unless amended or revoked, shall be binding on the Board of Ethics in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the Board of Ethics may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.

§ 18-21. Additional powers and duties.

In addition to any other powers and duties specified by this article, the Board of Ethics shall have the power and duty to:

- A. Administer and enforce all the provisions of this article.
- B. Conduct any investigation necessary to carry out the provisions of this article. Pursuant to this power and duty, the Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

§ 18-22. Public information.

- A. Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Board of Ethics which shall be available for public inspection are:
 - (1) The information set forth in an annual statement of financial disclosure filed pursuant to this article, except the categories of value or amount which shall remain confidential and any other item of information deleted pursuant to § 18-15A(6) and (7) of this article.
 - (2) Notices of delinquency sent under § 18-16 of this article.
 - (3) Notices of reasonable cause sent under § 18-17B of this article.
- B. Notwithstanding the provisions of Article 7 of the Public Officers Law, no meeting or proceeding of the Board of Ethics shall be open to the public, except if expressly provided otherwise by the Board of Ethics.
- C. Any individual who requests to review any financial disclosure statement filed under this article must provide the Board of Ethics with his/her name, address and telephone number. The Board of Ethics shall then make an expurgated copy of such statements available to such individual for review at a location chosen by the Board of Ethics. No individual shall be permitted to retain such statement or make a photocopy of the same.

§ 18-23. Expenses.

Members of the Board of Ethics shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

§ 18-24. Staff.

The Board of Ethics shall be empowered to request support staff and assistance from the Town Board or Supervisor in furtherance of its duties and responsibilities.

§ 18-25. Copies to be distributed.

Upon the adoption of this article, the Town Coordinator of Employee Relations shall cause a copy thereof to be distributed to every individual required to file an annual statement of financial disclosure. Failure to distribute such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this article nor on the enforcement of the provisions hereof. The Town Coordinator of Employee Relations shall further cause a copy of this article to be kept posted conspicuously on the signboard maintained by the Town Clerk in the Town Hall. Failure to post this article shall have no effect on the duty of compliance herewith nor on the enforcement provisions hereof.

§ 18-26. Filing.

Within 30 days of the adoption of this article, the Town Clerk shall file a copy thereof in the Comptroller's Office of the State of New York, addressed to Michael E. Kupferman, Office of the State Comptroller, Legal Services, 6th Floor, Alfred E. Smith State Office Building, Albany, New York 12236.

§ 18-27. Appropriation of funds.

The Town Board may appropriate moneys from the general town funds for the maintenance of and for personal services to the Board of Ethics established hereunder, but such Board of Ethics may not commit expenditures of town moneys except within the appropriations provided herein.

§ 18-28. Severability.

If any clause, sentence, paragraph, section or part of this article shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be continued in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 18-29. When effective.

This article shall become effective upon filing with the Secretary of State.



Town of Cheektowaga
3301 Broadway
Cheektowaga, NY 14227

Meeting: 09/14/11 06:00 PM

ADOPTED

Sponsors: Holtz, Swiatek, Rogowski, Zydel, Markel, Kaznowski

RESOLUTION 2011-514

Adopt Whistleblower Policy

BE IT RESOLVED, that this Town Board hereby adopts the attached Whistleblower Policy.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Holtz, Supervisor
SECONDER:	Jeff Swiatek, Councilmember
AYES:	Holtz, Swiatek, Rogowski, Zydel, Markel, Kaznowski
ABSENT:	Patricia Jaworowicz

State Of New York
Erie County
Office Of The Clerk Of The
Town of Cheektowaga

ss:

This is to certify that I, *Alice Magierowski*, Clerk of the *Town of Cheektowaga*, in the said *County of Erie*, have compared the foregoing copy of resolution with the original resolution now on file at this office, and which was passed by the Town Board of the *Town of Cheektowaga*

in said *County of Erie*, on Wednesday, September, 14, 2011, and that the same is a correct and true transcript of such original resolution and the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Town on Monday, November, 21, 2011.

(Seal)

CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY

TOWN OF CHEEKTOWAGA **WHISTLEBLOWER POLICY**

POLICY FOR REPORTING IMPROPER GOVERNMENTAL ACTION **AND** **PROTECTING EMPLOYEES AGAINST RETAILATION**

The Town Board of the Town of Cheektowaga hereby declares that it is the policy of the Town of Cheektowaga that the New York State Whistleblower Law (Section 75-b of the Civil Service Law) applies to all employees of the Town of Cheektowaga.

Under the Whistleblower Law, the Town of Cheektowaga cannot and will not dismiss or take disciplinary action against a Town employee because said employee discloses to a governmental body, officer or employee, or law enforcement agency or the judiciary information:

- (i) regarding a violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety; or
- (ii) which the employee reasonably believes to be true and reasonably constitutes an “improper governmental action” which is in violation of any federal, state or local law, rule or regulation.

”Improper government action” shall mean any action by the Town or Town employee, or an agent of the Town which is undertaken in the performance of such agent’s official duties, whether or not such action is within the scope of his/her employment, and which is in violation of any federal, state or local law, rule or regulation.

Under the NYS Whistleblower Law, before a Town employee can disclose information referenced above, the employee must make a good faith effort to provide the “appointing authority” (i.e. Town Board, Highway Superintendent) or his/her designee (i.e., Coordinator of Employee Relations, Department Head) the information to be disclosed and give them a reasonable time to take appropriate action (unless there is imminent and serious danger to public health or safety).

If the employee is thereafter disciplined, he/she may argue the defense of the Whistleblower Law before an arbitrator, hearing officer or court; and, if successful, said employee shall be entitled to reinstatement with back pay, etc.



Town of Cheektowaga
3301 Broadway
Cheektowaga, NY 14227

Meeting: 09/14/11 06:00 PM

ADOPTED

Sponsors: Holtz, Swiatek, Rogowski, Zydel, Markel, Kaznowski

RESOLUTION 2011-515

Adopt Policy Relating to Misuse of Town Resources

BE IT RESOLVED, that this Town Board hereby adopts the attached Policy Relating to Misuse of Town Resources.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Holtz, Supervisor
SECONDER:	Jeff Swiatek, Councilmember
AYES:	Holtz, Swiatek, Rogowski, Zydel, Markel, Kaznowski
ABSENT:	Patricia Jaworowicz

State Of New York
Erie County
Office Of The Clerk Of The
Town of Cheektowaga

ss:

This is to certify that I, *Alice Magionski*, Clerk of the *Town of Cheektowaga*, in the said *County of Erie*, have compared the foregoing copy of resolution with the original resolution now on file at this office, and which was passed by the Town Board of the *Town of Cheektowaga*.

in said *County of Erie*, on Wednesday, September, 14, 2011, and that the same is a correct and true transcript of such original resolution and the whole thereof.

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(Seal)

CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY

TOWN OF CHEEKTOWAGA
POLICY RELATING TO
MISUSE OF TOWN RESOURCES

Town officers and employees shall not use Town letterhead, personnel, equipment, vehicles, supplies or any other Town resources for a non-governmental purpose, nor engage in personal or private activities during times when he or she is required to work for the Town of Cheektowaga.



RESOLUTION 2011-516

Adopt Policy Relating to Hiring/Supervising Relatives

BE IT RESOLVED, that this Town Board hereby adopts the attached Policy Relating to Hiring/Supervising Relatives.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Holtz, Supervisor
SECONDER:	Jeff Swiatek, Councilmember
AYES:	Holtz, Swiatek, Rogowski, Zydel, Markel, Kaznowski
ABSENT:	Patricia Jaworowicz

State Of New York
Erie County
Office Of The Clerk Of The
Town of Cheektowaga

ss:

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in said *County of Erie*, on Wednesday, September, 14, 2011, and that the same is a correct and true transcript of such original resolution and the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Town on Monday, November, 21, 2011.

(Seal)

CLERK OF THE TOWN BOARD, TOWN OF CHEEKTOWAGA, NY

TOWN OF CHEEKTOWAGA **POLICY RELATING TO** **HIRING/SUPERVISING RELATIVES**

Except as otherwise required by law:

- (a) No Town officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the Town of Cheektowaga.
- (b) No Town officer or employee may directly supervise a relative in the performance of the relative's official powers or duties.

