

Chapter 8A

CODE OF ETHICS

- § 8A-1. Title.
- § 8A-2. Statutory authority; intent.
- § 8A-3. Definitions.
- § 8A-4. General regulations.
- § 8A-5. Transactional disclosure and recusal; definitions.
- § 8A-6. Disclosure statement.
- § 8A-7. Civil penalty; penalties for offenses.
- § 8A-8. Maintenance of disclosure statements.
- § 8A-9. List of officials; notice and verification of filing.
- § 8A-10. Board of Ethics.
- § 8A-11. Duty to report.
- § 8A-12. Distribution of Code of Ethics.

[HISTORY: Adopted by the Grand Island Town Board 5-7-2001 by L.L. No. 4-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 26A.
Zoning Board of Appeals — See Ch. 49, Art. VIII.

§ 8A-1. Title.

This chapter may be cited as the “Town of Grand Island Code of Ethics.”

§ 8A-2. Statutory authority; intent.

This code is enacted pursuant to Article 18 of the General Municipal Law and in recognition of the policy of the State of New York and the Town of Grand Island to maintain the highest standards of integrity and public service. It is intended to afford town officers and employees guidance in conforming to ethical standards, to promote public confidence in the integrity of town government, to require public disclosure of financial interests that may influence or be perceived as influencing actions of town officers and employees, to minimize unwarranted suspicion and to provide for fair and effective administration of this code. This code shall be in addition to all of the restrictions, standards and provisions pertaining to the conduct of town officers and employees.

§ 8A-3. Definitions.

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

AGENCY — Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town of Grand Island; and shall include but not be limited to the Zoning Board of Appeals, Planning Board and any and all other duly established boards, committees, commissions and other groups of any nature that may lawfully be subject to this chapter.

APPEAR and APPEAR BEFORE — Communicating in whatever form, whether personally or through another person.

BUSINESS DEALING — Having or providing any contract, service or work with the municipality; buying, selling, renting, leasing or otherwise acquiring from or dispensing to a municipality any goods, services or property; or applying for, petitioning, requesting or

obtaining any approval, grant, loan, license, permit or other privilege from the municipality.

DISCRETIONARY ACT — Any action involving the exercise of judgment or discretion by a municipal officer or employee, either individually or as a member of any agency, and includes but is not limited to negotiation, approval, advice, recommendation, authorization or audit.

FAMILY MEMBER — A spouse, child, stepchild, brother, sister, parent or dependent of a municipal officer or employee.

GOVERNING BODY — The Town Board of the Town of Grand Island.

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

PAID TOWN OFFICER, EMPLOYEE OR OFFICIAL — Any town officer, employee or official who receives a salary from the town or who is compensated by the town on a per diem or hourly basis, but does not include a town officer, employee or official who is solely reimbursed by the town for expenses incurred in the course of his or her duties.

PARTICULAR MATTER — Any business dealing with the town or any application therefor or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a town officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances or regulations of general application.

PERSON — An individual, corporation, partnership, unincorporated association and all other entities.

SPOUSE — A husband or wife from whom the town officer or employee is not legally separated.

TOWN — The Town of Grand Island, and includes all agencies thereof and officers, employees and officials thereof.

TOWN CLERK — The Clerk of the Town of Grand Island.

TOWN OFFICER OR EMPLOYEE — Any officer or employee of the Town of Grand Island, whether paid or unpaid, including public officials and all other members of any agency in the Town of Grand Island, but does not include the Town Justices, officers or employees of the Unified Court System. Volunteer firemen and civil defense volunteers shall not be deemed to be "town officers or employees."

TOWN OFFICIAL — Any town officer or employee who has the authority, either alone or as a member of an agency, to perform discretionary acts on behalf of the town with respect to any business dealing. "Town official" shall not include Town Justice and any town officer or employee who performs only ministerial acts and duties.

§ 8A-4. General regulations.

A. No town officer or employee shall:

- (1) Act as attorney, agent, broker, employee, consultant or representative for any person in connection with any business dealing that person has with the town.
- (2) Directly or indirectly, solicit any gift or accept or receive any gift or series of gifts having an annual value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in 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. The foregoing limitation shall not apply to campaign contributions not otherwise prohibited by law.

- (3) Take or refrain from taking any action or agree to take or refrain from taking any action or induce or attempt to induce any other town officer or employee to take or refrain from taking any action on any matter before the town in order to obtain a pecuniary or material benefit for:
 - (a) Himself or herself;
 - (b) A family member;
 - (c) Any partnership or unincorporated association of which the town officer or employee is a member or employee or in which he or she has a proprietary interest;
 - (d) Any corporation of which the town officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock;
 - (e) Any person with whom the town officer or employee or his or her family member has an employment, professional, business or financial relationship; or
 - (f) Any person from whom the town officer or employee or his or her spouse has received within any twelve-month period during the previous 24 months a pecuniary or material benefit having an aggregate value greater than \$1,000, unless said individuals make up less than 5% of a class of individuals benefitted.
- (4) Appear before the agency served by or which employs such town officer or employee except on behalf of the town or on his or her own behalf.

- (5) Appear before the town except on behalf of the town or on his or her own behalf. This subsection shall only apply to officers and employees who are elected or who are paid by the town.
- (6) Appear as attorney or counsel against the interests of the town in any matter in which the town is a party or a complainant.
- (7) Solicit any nonelected officer or employee of the town to participate in an election campaign. This subsection shall not prohibit an elected officer from soliciting such participation from officers and employees who are appointed by and directly subordinate to such elected officer and who serve in positions which are in the exempt classification or the unclassified service under the Civil Service Law.
- (8) Directly or through a person, campaign committee or other organization authorized to act on his or her behalf solicit any nonelected officer or employee of the town to pay or promise to pay any assessment, subscription or contribution to a political party, political party organization or election campaign. This subsection shall not prohibit a general solicitation of a class of persons.
- (9) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf, solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign from any person who, to the knowledge of the municipal officer or employee, has or, within the previous 12 months, has had any business dealing with the municipality. This subsection shall not prohibit a general solicitation of a class of persons.
- (10) Except where such disclosure is authorized by law, disclose any confidential information acquired in the

course of his or her official duties or use any such information to advance the financial or other private interest of himself or herself or any other person.

- (11) After termination of his or her term of office or employment with the town, appear before the town or receive compensation for any services rendered on behalf of any person other than the town in relation to any particular matter upon which he or she took any discretionary act during his or her term of office or employment with the town.
 - (12) Disclose any confidential information acquired in the course of performing official duties, including information acquired in an executive session, or use such information to further his or her personal interest.
- B. No partnership or unincorporated association of which a town official is a member or employee or in which he or she has a proprietary interest nor any corporation of which he or she is an officer or director or legally or beneficially owns or controls more than 5% of the outstanding stock shall appear before the agency served by such town official on behalf of any person other than the town or itself.
 - C. No partnership or unincorporated association of which a town official who is elected or paid by the town is a member or employee or in which he or she has a proprietary interest nor any corporation of which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock shall appear before the town on behalf of any person other than the town or itself.
 - D. Nothing in this section shall be construed to prohibit a town officer or employee or any other person from receiving a municipal service or benefit or using a municipal facility which is generally available to residents or a class of residents in the town.

- E. Nothing in this section shall be construed to prohibit any town officer or employee listed in § 11 of the Domestic Relations Law from accepting any gift or benefit having a value of \$75 or less for the solemnization of a marriage by that town officer or employee at a place other than the town officer's or employee's normal place of business or at a time other than the officer's or employee's normal hours of business and except as may be otherwise restricted by law.
- F. Nothing in this section shall be construed to prohibit a town officer or employee from performing any ministerial act.
- G. A person who knowingly violates any provision of this section may, in addition to any penalty contained in any other provisions of law, be dismissed, suspended or removed from office or employment in the manner provided by law.

§ 8A-5. Transactional disclosure and recusal; definitions.

- A. Whenever a town officer or employee is requested or required to take any action on a matter before the town and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the town officer or employee shall not participate in that matter unless the officer's or employee's recusal prohibits town action, then said officer or employee shall participate after full disclosure and reference to the particular legislation otherwise prohibiting town action. The town officer or employee also shall file promptly with his or her immediate superior, if any, and with the Town Clerk a signed statement disclosing the nature and extent of that interest.

- B. For purposes of this section, the following terms shall have the meanings indicated:

RELATED PERSON:

- (1) A family member.
 - (2) Any corporation of which the municipal officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock.
 - (3) Any person with whom the municipal officer or employee or his or her family member has an employment, business or financial relationship.
 - (4) Any person from whom the municipal officer or employee or his or her spouse has received within any twelve-month period during the previous 24 months a pecuniary or material benefit having an aggregate value greater than \$1,000.
- C. Nothing in this section shall be construed to prohibit a town officer or employee from performing any ministerial act or to require a town officer or employee to file a disclosure statement pursuant to Subsection A of this section prior to performing any ministerial act. The award of a contract by an officer or employee pursuant to the public bidding requirements of § 103 of the General Municipal Law shall be deemed a ministerial act.

§ 8A-6. Disclosure statement.

- A. All town officials who are elected, all town departments heads, the Chairperson of the Zoning Board of Appeals and the Chairperson of the Planning Board shall file with the Town Clerk, who for the purpose of this section shall also be deemed the Secretary of the Board of Ethics as hereinafter set forth, a signed, annual disclosure statement within 120 days of the effective date of this chapter, within 30 days of taking office and no later than

April 30 of each year thereafter. Within 30 days of any change in the information contained in his or her most recently filed statement, the public official shall file a signed amendment to the statement indicating the change.

B. Information to be disclosed by all elected, paid or appointed town officials shall be in the following form:

**Annual Statement of Financial Disclosure
Town of Grand Island
For Calendar Year _____**

(1) Name: _____

Address: _____

If married, spouse's name: _____

(2) (a) Title of town position: _____

(b) Department, agency or other governmental entity: _____

(3) Do you receive any benefits, compensation or other consideration that is derived directly or indirectly from your employment or association with the Town of Grand Island, other than your remuneration from the town?

Yes _____ No _____

If YES please describe the nature, source of and amount such benefits, compensation or other consideration.

Nature	Source	Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (4) List the address of all real property in which you, your spouse or other family member of your household has an ownership or other financial interest.

Name of Owner	Address
_____	_____
_____	_____
_____	_____
_____	_____

- (5) List the name and address of any partnership, unincorporated association, corporation, business or employer of any sort of which you or your spouse is a member, officer or employee or from which you or your spouse derives income of any nature, giving your position and/or your spouse's position, if any, with such entity.

Organization: _____

Self/Spouse	Position	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (6) List the name and address of any corporation, partnership, unincorporated association or business of which you or your spouse legally or beneficially owns or controls more than 5% of the issued and outstanding stock or other ownership rights.

Organization: _____

Self/Spouse	Address
_____	_____
_____	_____

_____	_____
_____	_____
_____	_____

(7) State any self-employment, and the general nature thereof, from which you or your spouse has derived gross income in excess of \$2,000 during the previous calendar year.

Self/Spouse	General Nature
_____	_____
_____	_____
_____	_____
_____	_____

(8) If you are unable, after reasonable effort, to obtain any of the information required herein, so state and explain.

Signature of Reporting Individual

(Month, Day, Year)

§ 8A-7. Civil penalty; penalties for offenses.

A. Statement of financial disclosure.

(1) If the Board of Ethics determines that a reporting individual has knowingly and willfully failed to file an annual statement of financial disclosure as provided herein or who knowingly and willfully with intent to deceive makes a false statement or gives

information which such individual knows or should have known to be false on such statement of financial disclosure filed pursuant to this chapter, the Board of Ethics shall recommend to the Town Board the assessment of a civil penalty against the reporting individual in an amount not to exceed \$10,000.

- (2) For a violation of this subsection, the Town of Grand Island Board of Ethics or the Town Board may, in lieu of a civil penalty, refer a violation to the District Attorney and, upon such conviction, but only after such referral, such violation shall be punishable as a misdemeanor.
 - (3) Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary actions as otherwise provided by law.
- B. If the Board of Ethics determines that there is reasonable cause to believe that a violation of conflict of interest and/or transactional disclosure provisions of this chapter has occurred, the Town of Grand Island Board of Ethics shall recommend to the Town Board, and the Town Board may assess, a civil penalty in an amount not to exceed \$10,000 or, in lieu thereof, issue a public censure or private admonition. In its discretion, the Ethics Board may recommend to the Town Board disciplinary action. In addition, the appointing authority may impose disciplinary action as otherwise provided by law.
- C. The Town of Grand Island Board of Ethics shall, subject to the approval of the Town Board, adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set

forth in Article 3 of the State Administrative Procedures Act, but such mechanisms may not be identical in terms or scope.

- D. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Town of Grand Island Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

§ 8A-8. Maintenance of disclosure statements.

Transitional disclosure statements and annual disclosure statements shall be a matter of public record and shall be filed and indexed with the Town Clerk. The Town Clerk shall retain such disclosure statements for a period of not less than seven years from the date of filing.

§ 8A-9. List of officials; notice and verification of filing.

- A. On or before the first day of April of each year the Town Supervisor, together with the Town Clerk, shall:
- (1) File with the Town Clerk a list of names and offices or positions of all officials required to file annual disclosures; and
 - (2) Notify all persons required to file annual disclosures.
- B. On or before the 15th day of May of each and every year, the Board of Ethics shall ascertain and verify that every required individual has filed the required disclosure statement.
- C. Failure of the Supervisor and the Town Clerk to notify any or all individuals required to file disclosure statements shall not relieve town officials of their duty to file the disclosure statements.

§ 8A-10. Board of Ethics.

- A. A Board of Ethics is established and shall be known as the "Town of Grand Island 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. Only one member of the Board shall be an officer or employee of the Town of Grand Island. 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 Grand Island. All members shall serve without compensation.

NOTE: Initial appointees to the Board shall at the first meeting draw lots numbered 1 to 5 to determine the length of years of their term of office.

- C. No more than two members of the Board may be affiliated with the same political party. No member of the Board of Ethics may hold an officer's position in any political party, except such person may be a member of a county committee of a political party. 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 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 chapter 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 chapter 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, subject to ratification of the Town Board.

§ 8A-11. Duty to report.

Every town officer or employee shall report to the Erie County District Attorney or the Town Attorney any action which may reasonably be interpreted as an improper attempt to influence him in the conduct of his office.

§ 8A-12. Distribution of Code of Ethics.

The Town Clerk shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the town within 20 days of the effective date of this chapter. Thereafter, the Town Clerk shall cause a copy of this Code of Ethics to be distributed to every town officer or employee elected or appointed thereafter prior to the commencement of the duties of his or her office or employment.