

Chapter 14

ETHICS, CODE OF

§ 14-1. Purpose; construal of provisions.

§ 14-2. Definitions.

§ 14-3. Conflicts of interest.

§ 14-4. Prohibited acts.

§ 14-5. Penalties for offenses.

§ 14-6. Board of Ethics established.

§ 14-7. Requests for opinions.

§ 14-8. Promulgation of rules and regulations; records.

§ 14-9. Referral to County Board of Ethics.

§ 14-10. Distribution and posting of provisions.

§ 14-11. Copies to be filed with State Comptroller.

[HISTORY: Adopted by the Town Board of the Town of Sardinia 8-8-84. Section 14-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 19.

§ 14-1. Purpose; construal of provisions.

A. Pursuant to the mandate set forth in § 806 of the General Municipal Law of the State of New York, the Town Board of Sardinia realizes the need for a Code of Ethics and a Board of Ethics to review said code. The Sardinia Town Board realizes

that it is essential, to maintain public confidence in government, that there be a published and articulable set of rules and regulations establishing standards of conduct, to provide sanctions for the nonobservance of such rules and to provide for the avoidance of conflicts of interest of municipal officers and municipal employees.

- B. The provisions contained herein are supplemental to any enjoined acts, conflicts of interest provisions or procedures as set forth in the statutes of the State of New York and also in addition to common law rules and case law relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

§ 14-2. Definitions.

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

TOWN — Any board, counsel, commission, district or other agency, department or unit of the government of Sardinia being comprised of elected officials or persons appointed by the Town Board.

TOWN EMPLOYEE — Any officer or employee of the Town of Sardinia, either paid or unpaid, whether serving full-time or part-time or advisory capacity, and this shall include both elected and appointed personnel.

§ 14-3. Conflicts of interest.

No town employee shall have any interest, be it financial or not, direct or indirect, or pursue any business or transaction or professional activity or incur any obligation whatsoever which is in substantial conflict with the proper exercise, function and discharge of his/her duties in the public domain and interest.

§ 14-4. Prohibited acts.

A. The following is a list of acts which, by this Code of Ethics, are prohibited. Said list is not meant to be all inclusive but is indicative of acts upon which disciplinary action may be had. No town employee shall:

- (1) Accept other employment which will interfere with his or her discretion and/or independence of judgment in the exercise of his/her official capacity.
- (2) Accept employment or pursue any other business or professional activity which necessitates him or her to disclose or use for personal benefit any confidential information gained by reason of his/her authority, position or title.
- (3) Use, attempt or conspire to use his/her official position, influence or title to secure any privileges or exemptions to himself/herself or for the benefit of others.
- (4) Engage in any transaction as an official, representative or agent of the town with any business entity, be it a sole proprietorship, joint venture, partnership or corporation, in which he or she has a direct or indirect financial interest that, upon examination, may tend to be in conflict with the proper and reasonable discharge and exercise of his/her official capacity.
- (5) By his or her conduct give any basis for indication to form an impression that he/she is susceptible or liable to be improperly influenced or that he/she is affected by the rank, title, position, capacity, influence or relationship of any party or person.
- (6) Make personal investments and enterprises, business or the like that he or she believes is or may become directly or indirectly involved in decisions to be made by him or her or for which otherwise creates a conflict of interest between his/her duty as a public official and his/her private interest.

- (7) Pursue a course of conduct which will raise suspicion or concern among the public that he/she is engaging or is likely to be engaging in acts of violation of his/her trust.
- B. No town employee, either full-time or part-time, nor any firm or association of which such an employee is a member, nor any corporation or partnership, a substantial portion of the stock or ownership of which is owned or controlled directly or indirectly by such an employee, shall sell goods or services to any person, firm, corporation or association licensed or whose rates are fixed by the town herein in which such employee serves or is employed. Should it be found that any town employee has a direct or indirect financial interest in or is related by blood, marriage or the like to any principal owner or agent of a firm doing business with or likely to do business with the town, he shall disclose such relationship to the Town Board.

§ 14-5. Penalties for offenses.

Any such town employee who shall knowingly and intentionally violate any provisions contained in this chapter is automatically subject to § 805 of the General Municipal Law of the State of New York, providing that an intentional violation knowingly of Article 18 of the General Municipal Law is a misdemeanor and that, under the provision of this chapter, a town employee, if found guilty, will be fined, suspended or removed from office or other employment pursuant to law.

§ 14-6. Board of Ethics established.

Pursuant to § 808 of the General Municipal Law of the State of New York, the governing body of the town may establish a Board of Ethics and, where such governing body is so authorized, appropriate moneys for maintenance and personal services in connection therewith. Therefore, on the basis of the above statute, the Sardinia Town Board does hereby establish a Board of Ethics, consisting of three (3) members to be chosen by the Town Board, all of whom reside within the Town of Sardinia, to serve without compensation and at the pleasure of the Sardinia Town Board. The majority of the Board shall

be persons other than town employecs as defined herein, but shall include at least one (1) person who is an elected or appointed town employee of the Town of Sardinia. The Board of Ethics established herein is for the purpose of giving advisory opinions to town employees, upon written request by same, and the Board of Ethics may, upon request of the Town Board, make recommendations to the Town Board as to any proposed changes or amendments to this chapter. It is understood that the opinions of the Board of Ethics shall be strictly advisory in nature and confidential, and at no time shall the identity of the town employee making the request for an opinion to the Board of Ethics be disclosed, except to authorized persons and agencies as determined by the Board of Ethics. Such opinions may be on the advice of counsel employed by the Board of Ethics or by the Town Attorney.

§ 14-7. Requests for opinions.¹

- A. The Board of Ethics shall accept written requests for opinions concerning the possible violation of the Sardinia Code of Ethics and/or Article 18 of the General Municipal Law by the activities and/or interests of town officers and employees in the following circumstances, and only in the following circumstances:
- (1) A request from any town officer or employee concerning his own activities and/or interests; or
 - (2) A request from the Town Board concerning the activities and/or interests of any town officer or employee.
- B. Requests by the Town Board may involve either inquiries initiated by the Town Board itself or inquiries which the Town Board has received from a member of the public in the form of a signed and dated written inquiry bearing the signer's residence address and which the Town Board has referred to the Board of Ethics, accompanied by the Town Board's own request that the Board of Ethics, accompanied by the Town Board's own request that the Board of Ethics consider the matter and render an advisory opinion. In no event shall the Board of Ethics render any advisory opinions on its own

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

initiative or in response to inquiries received directly from members of the public.

- C. In considering such requests, the Board of Ethics shall follow the following procedures:
- (1) If any request involves the activities or interests of any member of the Board of Ethics, the Town Board shall appoint a temporary replacement to sit in such member's place.
 - (2) The Board shall afford individuals whose activities and interests are involved in the request an opportunity to appear before the Board and be heard, unless the Board concludes that, on the face of the request, the activities and/or interests in question clearly involve no violation of the Code of Ethics or Article 18 of the General Municipal Law. The Board also may afford an opportunity to appear and be heard to such other persons as the Board, in its discretion, feels might provide information useful in considering the request.
 - (3) In considering requests and preparing advisory opinions, the Board shall have the advice of the Town Attorney.
 - (4) Advisory opinions requested under Subsection A(1) above shall be rendered to the party making the request and, if the opinion concludes that there has been an actual violation of the Code of Ethics and/or Article 18 of the General Municipal Law, a copy thereof shall be provided to the Town Board. Advisory opinions requested under Subsection A(2) above shall be rendered to the Town Board.

§ 14-8. Promulgation of rules and regulations; records.

The Board of Ethics is hereby empowered to establish and make known its own rules and regulations as to its procedures and form, and there shall be adequate and appropriate records of its opinions and proceedings kept.

§ 14-9. Referral to County Board of Ethics.

It is recognized and understood that the County of Erie has had a Board of Ethics in existence since December 29, 1970. It is hereby also understood that this Board may, at its opinion, refer matters to the County Board of Ethics.

§ 14-10. Distribution and posting of provisions.

Pursuant to § 806, Subdivision 2, of the General Municipal Law of the State of New York, the Town Supervisor shall, upon adoption of this chapter, forward a copy of the Code of Ethics to every officer and employee of this municipality, be said officer and employee elected or appointed. The failure to distribute any such copy or failure of any officer to receive such copy shall have no effect on the immediate compliance with this Code of Ethics, nor would the enforcement of the provisions contained therein. The Town Supervisor shall cause a copy of this chapter to be kept posted in each public building under the jurisdiction of the municipality and in a place conspicuous to its officers and employees. Failure to comply with this provision shall have no effect on the duty of officers and employees to comply with this code, nor would the enforcement of the provisions therein.

§ 14-11. Copies to be filed with State Comptroller.

Within thirty (30) days after the adoption of this code, the Town Clerk shall file a copy of same in the office of the State Comptroller. Should there be any subsequent amendment to this Code of Ethics, the Town Clerk shall, within thirty (30) days after the adoption of the amendments, file the amendments in the office of the State Comptroller.