

## Chapter 25

### ETHICS, CODE OF

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**[HISTORY: Adopted by the Town Board of the Town of New Windsor 5-15-1991 by L.L. No. 1-1991 (Ch. 18A of the 1972 Code). Amendments noted where applicable.]**

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#### § 25-1. Intent.

- A. The Code of Ethics which follows deals with procedures to address conflicts of interest on the part of the Town officers/employees and certain volunteers. There are requirements for disclosure of actual or potential or perceived interest conflicts on the part of the individual, his/her immediate family and/or members of his/her household. In addition, there are provisions to safeguard confidential information and to establish standards of conduct.
- B. We recognize that the vast majority of public officials and employees are men and women of great integrity. However, we have seen nationwide too many instances where public trust has been violated for personal gain. The New Windsor Code of Ethics is designed to preclude, insofar as possible, taking advantage of one's position or access to information for one's self and/or others and to protect public officials from untoward pressures.
- C. The code does not seek to restrain or expose individuals so as to discourage participation or employment in government. The major concern is to provide for appropriate disclosure of potential interest conflicts so that all factors are open and aboveboard and the situations can be subject to the judgment of governing bodies in the light of public awareness.

#### § 25-2. Title.

This chapter shall be known as the "Code of Ethics of the Town of New Windsor."

**§ 25-3. Definitions.**

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

**CONTRACT** — Any claim, account or demand against or agreement with the Town of New Windsor, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution or other proceeding where such publication is required or authorized by law.<sup>1</sup>

**IMMEDIATE FAMILY MEMBER** — Grandparents, parents, spouse, children, grandchildren, brothers, sisters, dependents or any household members of a Town officer, Town Board member, Town employee or Town consultant.

**INTEREST** — A direct or indirect pecuniary or material benefit accruing to a Town officer or employee as the result of a contract with the Town of New Windsor. For the purposes of this chapter, a Town officer or employee shall be deemed to have an interest in the contract of his/her spouse, minor children and dependents, except a contract of employment with the Town of New Windsor; a firm, partnership or association of which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.<sup>2</sup>

**TOWN CONSULTANT** — Any individual, group or firm who or which renders services on behalf of the Town to any Town officer, Town Board, Planning Board, Zoning Board of Appeals or any Town agency.

**TOWN OFFICER, TOWN BOARD MEMBER or TOWN EMPLOYEE** — An officer or employee of the Town of New Windsor, whether paid or unpaid, including members of the Planning Board, Zoning Board of Appeals, Crestview Commission, Board of Assessment Review or any other agency. It shall not include volunteer firemen, ambulance corpsmen or civil defense volunteers in their capacity as volunteers for those organizations.

**§ 25-4. Multiple ethics codes.**

Should any Town officer be subject to another code of ethics or professional conduct (i.e., Town Justice), the Town officer shall be subject to the conditions of both codes and the more stringent standards will apply.

**§ 25-5. Conflict of interest.**

- A. No Town officer, Town Board member, Town employee or Town consultant shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with or might reasonably tend to conflict with the proper discharge of his duties in the public interest.

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1. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. If such a conflict occurs, the Town officer, Town Board member, Town employee or Town consultant shall make known to all concerned parties the nature of such conflict and shall refrain from any participation whatsoever in the matter so as to avoid the conflict. In all cases of potential conflict, the Town Supervisor and all Councilpersons shall be made aware, in writing, of the situation by the person in conflict and any concerned parties, including the Town Board of Ethics.
- C. No Town Board member, Town officer, Town employee or Town consultant shall represent private interests before any agency, department, officer or other entity of the Town of New Windsor Town government to which he/she is a member, by which he/she is employed or to which he/she renders services.
- D. Furthermore, no Town officer, Town Board member, Town employee, Town consultant or member of any board serving the Town of New Windsor shall:
  - (1) Appear as attorney or counsel or representative against the interests of the Town in any matter in which the Town is a party or complainant, without the written consent of the Town Board.
  - (2) 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.
  - (3) 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 Town officer or employee, has or within the previous 12 months has had any business dealing with the Town.
  - (4) Hold the office of Chairman or Vice Chairman in a political party or political party organization.
- E. Any incumbent member of an appointed board, serving at the time of the adoption of this chapter, may continue to serve such board contrary to the provisions of Subsection D(4) above; until such time as the member's term on such board shall expire.

**§ 25-6. Disclosure of interest. [Amended 3-2-1994 by L.L. No. 1-1994]**

- A. Any Town Board member, Town officer, Town employee or Town consultant who has any financial interest, direct or indirect, in any contract with the Town or in the sale of any land, material, supplies or services to the Town or in any contractor supplying the Town shall make the interest known, in writing, to the Board of Ethics no later than April 30 of each year. Any unknown interest shall be disclosed immediately upon becoming aware of the interest. The Board of Ethics will make all such information immediately available to the Town Board.
- B. Public disclosure.
  - (1) In addition, the following individuals will publicly disclose, in writing, to the Board of Ethics all holdings or other commercial or business interests located in or

serving the Town of New Windsor, whether held personally, jointly with a spouse, by a spouse, spouse's employer or other immediate family members (to the best of one's knowledge), jointly in partnership with others or as a corporation or trust, and the name of any partnership, corporation, entity or trust of which he/she or his/her spouse is an officer, director or employee or of which he/she or his/her spouse legally or beneficially owns or controls more than 5% of the outstanding stock or interest and his/her position and his/her spouse's position, if any, with the partnership, corporation or trust:

- (a) Town Supervisor.
  - (b) Highway Superintendent.
  - (c) Code Enforcement Officer.
  - (d) Chief of Police.
  - (e) All Town Board members.
  - (f) All Town Planning Board members.
  - (g) All Zoning Board of Appeals members.
  - (h) Town Engineer.
  - (i) Town Attorney.
  - (j) Consulting engineer to the Planning Board and the Zoning Board of Appeals.
  - (k) Consulting attorney to the Planning Board and the Zoning Board of Appeals.
  - (l) Sole Assessor.
  - (m) All members of the Board of Ethics.
  - (n) All Assessment Board of Review members.
  - (o) Town Clerk.
  - (p) Receiver of Taxes.
  - (q) Comptroller.
  - (r) All department heads, elected officials and any person representing the Town in a professional capacity.
- (2) This disclosure shall be made no later than April 30 of each year to the Board of Ethics by each of the above individuals. For a new Town Supervisor, Town Board members and Town officials, this disclosure shall be made within 30 days after taking office. Each official listed above shall be responsible for updating disclosures as identified in Subsections A and B(1) whenever there is a change in the status of his/her land holdings and financial interests related to or within the Town of New Windsor.

- C. Disclosure information shall be made available to the public as soon as the Board of Ethics has been able to properly examine the materials but in no event later than 45 days after the material is due to be submitted.

**§ 25-7. Confidential information.**

No Town Board member, Town officer, Town employee or Town consultant, whether paid or unpaid, shall disclose confidential information acquired by him/her in the course of his/her official duties nor use such information to advance his/her financial or other private interests or those of any other persons.

**§ 25-8. Prohibited acts.**

- A. No Town Board member, Town officer, Town employee or Town consultant shall accept other employment which will unduly influence or otherwise bias his/her independence of judgment in the exercise of his/her official Town duties.
- B. No Town Board member, Town officer, Town employee or Town consultant shall accept employment or engage in business or professional activity which will require him/her to disclose confidential information gained by reason of official position or authority.
- C. No Town Board member, Town officer, Town employee or Town consultant shall use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
- D. No Town Board member, Town officer, Town employee or Town consultant, acting as a representative of the Town of New Windsor or any subdivision thereof, shall engage in any transaction with any business entity in which he/she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his/her official duties. Should any immediate family member hold any financial interest in any firm involved in such transaction, that information shall be disclosed to the Board of Ethics before such transaction is initiated, provided that it is known.
- E. No Town Board member, Town officer, Town employee or Town consultant shall by his/her conduct give reasonable basis for the impression that another can improperly influence him/her or unduly enjoy his/her favor in the performance of his/her official duties or that he/she is affected by kinship, rank, position or influence of any party or person.
- F. Personal investments made by an immediate family member which, if made by one of the individuals noted above, would create a conflict of interest shall be made known to the Board of Ethics.
- G. No Town Board member, Town officer, Town employee, Town consultant or immediate family member shall accept any gifts or gratuities in any way relating to his/her official duties. The recipient of such gift or gratuity shall immediately return the same to the giver and shall notify the Town of New Windsor Board of Ethics of the incident.

**§ 25-9. Board of Ethics established.**

- A. The Town Board shall establish the Town Board of Ethics, consisting of five members, none of whom shall be a Town officer or Town employee or elected member of a political committee. There shall be appropriated adequate funds for the Board's maintenance and operation, including a paid secretary who should not hold one of these positions noted in this subsection.
- B. All members of the Board of Ethics shall reside within the Town. Of the initial appointed members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Subsequently, members shall be appointed to five-year terms. Each appointment shall be by unanimous vote of the Town Board.
- C. The Town Attorney shall provide such legal and advisory services to the Board of Ethics as it may require in the performance of its duties. If the Town Attorney has a potential conflict of interest, the Town will make available funds for outside counsel.

**§ 25-10. Restrictions on Board members; compensation.**

- A. No more than two members of the Board of Ethics may be enrolled or registered members of the same enrolled party.
- B. No Board member shall hold office in any political party or be employed as a lobbyist. A member may contribute money to but not otherwise participate in any Town election campaign.
- C. The members of the Board of Ethics shall not receive compensation for the performance of their official duties but shall be reimbursed for reasonable and necessary expenses, provided that said expenses receive prior written approval from the Town Board.

**§ 25-11. Removal of Board members.**

A Board of Ethics member may be removed by unanimous vote of the Town Board for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this code, after written notice and opportunity for reply to the Town Board following the recommendation of the majority vote of the Board of Ethics.

**§ 25-12. Board meetings; Chairman; quorum.**

At its first meeting each year, the Board of Ethics shall elect a Chairman from among its membership. Three members of the Board shall constitute a quorum. A vote of at least three members shall be required for the Board to take any action. The Board shall hold at least four meetings a year, the first being held before January 30 to review the list of public officials. The second meeting shall be held before May 30 to review the annual disclosure statements and any other business, the third meeting before September 30 and the fourth before November 30. The Chairman or any three members may call a meeting of the Town Board of Ethics at any time when needed.

**§ 25-13. Powers and duties of Board.**

A. The Board of Ethics shall have the following powers:

- (1) Prescription and promulgation of rules and regulations governing its own organization and procedures in a manner consistent with this code.
- (2) Cause to be filed with the State Ethics Commission a copy of the form for any disclosure statements required to be filed in § 25-6 of this code.
- (3) Review of disclosure statements pursuant to § 25-6 of this code.
- (4) Conduct of investigations pursuant to §§ 25-5, 25-6 and 25-7 of this code.
- (5) Conduct of hearings, recommendation of disciplinary action or penalties and initiation of appropriate actions and proceedings pursuant to § 25-14B of this code.
- (6) Issuance of advisory opinions pursuant to §§ 25-5, 25-6 and 25-7 of this code.
- (7) Provision of training and education to Town officers and employees on the provisions of this Code of Ethics.
- (8) Preparation of an annual report to the Town Board summarizing the activities of the Board of Ethics and recommendation of changes to the code, as necessary.

B. The Board of Ethics may refer any matter within its jurisdiction to the County or State Board of Ethics.

**§ 25-14. Waivers; complaints.**

- A. Issuance of waivers. The Board of Ethics shall grant a waiver in those situations in which the Board of Ethics believes the exception would serve the public interest, upon a unanimous vote of the Board of Ethics. Waivers shall be in writing and state the grounds on which they are granted.
- B. Filing of a complaint. Any person may file a complaint alleging a violation of this code by writing to the Town Board of Ethics, care of the Town Hall, or by requesting, through the Town Clerk's office, a meeting with the Town Board of Ethics at one of its regularly scheduled meetings.

**§ 25-15. Investigation of violations.**

- A. Upon receipt of a sworn complaint by any person alleging any violation of this chapter or of any local ethics law or upon determining on its own initiative that a violation of this chapter or of any local ethics law may exist, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provision of this chapter. The Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant and material.

- B. The accused shall be notified in writing regarding the complaint and shall have the right to appear before the Board of Ethics to explain or defend his/her position regarding the complaint.
- C. The Board of Ethics is not permitted to conduct an investigation of any of its members. Should the Board of Ethics receive notification alleging that the Board or any of its members has violated any provision of this code or that of any County or State Board of Ethics, the complaint shall be forwarded to the County or State Board of Ethics.
- D. The Board of Ethics shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. Upon the final disposition of a complaint, all such statements and all sworn complaints shall be public records and shall be indexed and maintained on file by the Board of Ethics. Prior to final disposition, all complaints, statements or other evidence shall remain confidential.
- E. Upon receipt of a complaint alleging a violation of this chapter by an individual that is a member of an association or society that maintains a grievance committee and has a grievance procedure in effect, the Board of Ethics shall forward said complaint to said grievance committee for an advisory opinion of any violation of the association or society code of ethics. Upon receipt of the advisory opinion, the Board of Ethics shall either adopt, reject or adopt in part the advisory opinion of the association or society and shall thereafter adopt its own decision.
- F. All decisions of the Board of Ethics shall be reviewable by filing of a petition pursuant to Article 78 of the New York State Civil Practice Laws and Rules in the Supreme Court of the State of New York.

**§ 25-16. Disciplinary action.**

In its discretion and after a hearing, the Board of Ethics may recommend appropriate disciplinary action to an authority or person or body authorized by law to impose such sanctions. The Board of Ethics shall conduct and complete the hearing with reasonable promptness unless, in its discretion, the Board of Ethics refers the matter to the authority or person or body authorized by law to impose disciplinary actions or to the appropriate prosecutor. If such a referral is made, the Board of Ethics may adjourn its hearing pending determination by such authority, person, body or prosecutor.

**§ 25-17. Advisory opinions.**

- A. Upon written request of any board, department or individual Town officer, Town employee or any applicant, the Town Board of Ethics may render written advisory opinions with respect to the interpretation or application of any provision of this code in a generic sense.
- B. Opinions and requests for opinions shall be public records and shall be indexed and maintained on file in an appropriate manner by the Town Board of Ethics along with all other Town Board of Ethics records in the office of the Town Clerk.

**§ 25-18. Distribution of code.**<sup>3</sup>

The Town Supervisor shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.

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3. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

