

Chapter 16
ETHICS, CODE OF

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[HISTORY: Adopted by the Town Board of the Town of Newburgh 6-5-1989 by Ord. No. 89-1; amended in its entirety 9-7-2004 by L.L. No. 5-2004. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 12.

§ 16-1. Title; statement of purpose.

- A. This chapter shall be known as the "Code of Ethics of the Town of Newburgh."
- B. Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Newburgh 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 chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Newburgh. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Newburgh. The rules of ethical conduct of this chapter, 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.

§ 16-2. Definitions.

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

DOMESTIC PARTNER — Any adult mate living in the same household.

IMMEDIATE FAMILY MEMBERS — A spouse, domestic partner, or minor child residing in the household of a Town officer, Town board member, or Town employee.

TOWN CONSULTANT — Any individual, group or firm 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 Newburgh, whether paid or unpaid, including members of the Planning Board, Zoning Board of Appeals, Recreation Advisory Board, Board of Assessment Review or any other agency. It shall not include volunteer firemen, ambulance corpsmen, or civil defense volunteers. 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.

§ 16-3. Conflict of interest prohibited.

- 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. In supplementation of the foregoing, pursuant to § 801 of New York State General Municipal Law, and subject to the exceptions set forth in § 802 of the General Municipal Law, as such sections may be amended or redesignated from time to time, no Town officer, Town board member or Town employee shall have an interest in any contract with the Town, when such Town officer, Town board member or Town employee, individually or as a member of a board, has the power or duty to negotiate payment thereunder, audit bills or claims under the contract, or appoint an officer or employee who has any of the powers or duties set forth above; and no Town Supervisor, Town accountant, his or her deputy, nor a Town employee within his or her department, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the Town. See Appendix A of this chapter for the texts of § 801 and § 802 of the General Municipal Law as of the date of adoption hereof.¹ The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any Town officer, Town board member or Town employee in one or more positions of public employment, the holding of which is not prohibited by law.
- 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 Councilmen shall be made aware of the situation by the person in conflict along with any other concerned parties, including the Town of Newburgh 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 this

1. **Editor's Note: Said Appendix A is on file in the office of the Town Clerk.**

Town of Newburgh Town government of which he or she is a member, by which he or she is employed, or to which he or she renders services. Furthermore, no Town officer, Town board member, Town employee or Town consultant shall:

- (1) Appear as attorney or counsel against the interests of the Town in any matter in which the Town is a party or complainant.
 - (2) Solicit any nonelected officer or employee of the Town to participate in an election campaign or 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. This Subsection C(4) shall apply only to appointed, paid public officials.
 - (5) Direct or cause any Town officer, Town board member or Town employee to do or perform any service or work outside of public work or employment, or to accept any such service or work, nor shall any such officer, member or employee offer to perform any such service or work, for such officer or employee.
 - (6) Request of members of the Town Board, Town officers or department heads or employees that any individual receive preferential consideration in connection with the provision of services or any appointment.
 - (7) Request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as a Town policy for the use of such officer, Town board member or employee in the conduct of official business, or as otherwise permitted by prior written agreement or contractual language, copies of which shall be provided to the Board of Ethics.
- D. The provisions of Subsections B and C above shall not be interpreted or construed as precluding any Town officer, board member, employee or consultant from contribution to, or participating in, any political campaign, whether federal, state, county or local, as a private citizen.

§ 16-4. Disclosure of interest.

- 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 Town Board and the Board of Ethics. The conflicted person shall not in any way participate in discussion of the contract.

- B. In addition, the following individuals will publicly disclose, in writing, to the Town Clerk and the Board of Ethics all land holdings in the Town of Newburgh, whether held personally, jointly with a spouse, by a spouse 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 or trust of which he or she, or his or her spouse, is an officer, director or employee, or of which he or she, or his or her spouse, legally or beneficially owns or controls more than 5% of the outstanding stock or interest, and his or her position, and his or her spouse's position, if any, with the partnership, corporation or trust:
- (1) All Town Board members.
 - (2) All Planning Board members.
 - (3) All Zoning Board of Appeals members.
 - (4) Town Engineer.
 - (5) Town Attorney or Attorney for the Town.
 - (6) Consulting engineer to the Planning Board and ZBA.
 - (7) Consulting attorney to the Planning Board and ZBA.
 - (8) Building Inspector.
 - (9) Fire Inspector.
 - (10) Sole Assessor (provided, however, if § 336 of the Real Property Tax law applies and requires further or additional disclosure, the Sole Assessor and all other Town officers and Town employees falling under the definition of "assessor" in § 336 shall comply with the stricter disclosure requirements of such state law).
 - (11) All members of the Town of Newburgh Board of Ethics.
 - (12) Town Clerk.
 - (13) Receiver of Taxes.
 - (14) All Town Justices.
 - (15) All department heads, including but not limited to:
 - (a) Chief of Police.
 - (b) Town Accountant.
 - (c) Code Compliance Supervisor.
- C. This disclosure shall be made by each of the above individuals. For new Town officials, this disclosure shall be made within 30 days after taking office. Each official listed above shall be responsible for updating his/her disclosure whenever there is a change in the status of his/her land holdings and financial interests.

§ 16-5. Disclosure of 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.

§ 16-6. Standards of conduct.

- A. No Town board member, Town officer, Town employee or Town consultant shall accept other employment which will impair 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 shall engage in any transaction as a representative of the Town of Newburgh or a Town of Newburgh agency or department or other office 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.
- 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. A Town board member, Town officer, Town employee or Town consultant shall abstain from making personal investments in enterprises which he/she has reason to believe may be directly involved in decisions to be made by him/her or which will otherwise create substantial conflict between his/her duty in the public interest and his/her private interest.
- G. No Town board member, Town officer, Town employee or Town consultant shall accept any gifts or gratuities having a value of \$75 or more whether in the form of money or in kind in any way relating to his/her official duties. The recipient of such gift or gratuity shall immediately return same to the giver and shall notify the Town of Newburgh Board of Ethics of the incident.

§ 16-7. Establishment of Board of Ethics.

- A. The Town Board shall establish the Town Board of Ethics, consisting of seven members, one of whom shall be a Town officer or employee, and shall appropriate adequate funds for the Board's maintenance and operation. The term of a member who is a Town officer

- or Town employee shall expire when he or she leaves his/her office or employment by the Town.
- 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, two for a term of four years and two 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 or Attorney for the Town shall provide such legal and advisory services to the Board of Ethics as it may require in the performance of its duties.
- D. Qualifications of Board of Ethics members:
- (1) No Board member shall hold office in any political party or be employed as a lobbyist.
 - (2) The members of the Town Ethics Board shall not receive compensation for the performance of their official duties but shall be reimbursed for reasonable and necessary expenses.
- E. Removal of Town Ethics Board members. A Town Ethics Board member may be removed by a 4/5 majority 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.
- F. Town Ethics Board meetings and quorum. At its first meeting each year, the Town Ethics Board shall elect a Chairman from among its membership. Four members of the Board shall constitute a quorum. A vote of at least four members shall be required for the Board to take any action. The Board shall hold at least one meeting per year. The Chairman or any four members may call a meeting of the Board.
- G. Powers and duties of the Town Ethics Board. The Town Ethics Board shall have the following powers and duties:
- (1) To prescribe and promulgate rules and regulations governing its own organization and procedures in a manner consistent with this Code;
 - (2) To cause to be filed with the State Ethics Commission a copy of the form for any disclosure statements required to be filed in § 16-5 of this Code;
 - (3) To review disclosure statements pursuant to § 16-5 of this Code;
 - (4) To conduct investigations pursuant to § 16-10 of this Code;
 - (5) To recommend disciplinary action and initiate appropriate actions and proceedings pursuant to § 16-11 of this Code;
 - (6) To issue advisory opinions pursuant to § 16-12 of this Code;
 - (7) To provide training and education to Town officers and employees on the provisions of this Ethics Code; and