

**ETHICS POLICY**

**I have received a copy of the Town of Irondequoit's Ethics Policy.**

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**NAME**

**DATE**

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## **Chapter 20: ETHICS**

[HISTORY: Adopted by the Town Board of the Town of Irondequoit 1-20-1977 as Ch. 104 of 1977 Code; amended in its entirety 12-18-1990 by L.L. No. 3-1990. Subsequent amendments noted where applicable.]

### **GENERAL REFERENCES**

Defense and indemnification — See Ch. 16.

Officers and employees — See Ch. 40.

### **§ 20-1. Title.**

This chapter shall be known as the "Ethics Law of the Town of Irondequoit."

### **§ 20-2. Purpose.**

The proper administration of the government of the Town of Irondequoit requires its officers and employees, whether elected or appointed, paid or unpaid, to be independent, impartial and free from conflicts of interest in fulfilling their public responsibilities so that the public will have confidence in the integrity of its town government. The purpose of this chapter is to establish minimum standards for the ethical conduct of town officers and employees to help ensure that the business of town government is free from improper influence that may result from opportunities for private gain. At the same time, it is recognized that public service cannot require a complete divesting of all proprietary interests, nor impose overly burdensome disclosure requirements, if local governments are to attract and hold competent administrators. Although the assurance of ethical conduct will continue to rest primarily on the personal integrity of the officers and employees themselves, on the commitment of elected and appointed officials and on the vigilance of their communities, the establishment of the standards and guidelines set forth in this chapter is an additional step toward providing the highest caliber of public administration of local government and increased confidence in public officials. By requiring public disclosure of financial interests that may influence or be perceived to influence the actions of public officials, this chapter is intended to facilitate consideration of potential problems before they arise, to minimize unwarranted suspicion and to enhance the accountability of government to the people.

### **§ 20-3. Definitions.**

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

**APPROPRIATE BODY** — The Board of Ethics created by this chapter.

**CHIEF FISCAL OFFICER** — The Supervisor, Director of Finance, a Comptroller, Commissioner of Finance or other officer of the town possessing similar powers and duties.

**COMMISSION** — The State of New York Temporary State Commission on Local Government Ethics.

**CONTRACT** — Any claim, account or demand against or agreement with the town, 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, ordinance or other proceeding where such publication is required or authorized by law.

**INTEREST** — A direct or indirect pecuniary or material benefit accruing to a town officer or employee as a result of a contract with the town. For the purposes of this chapter, a town officer

or employee shall be deemed to have an "interest" in the contract of:

- A. His or her spouse, minor children and dependents, except a contract of employment with the town which such officer or employee serves;
- B. A firm, partnership or association of which such officer or employee is a member or employee;
- C. A corporation of which such officer or employee is an officer, director or employee; and
- D. A corporation, any stock of which is owned or controlled directly or indirectly by any such officer or employee.

**LOCAL ELECTED OFFICIAL** — An elected official of the town except judges or justices of the unified court systems.

**LOCAL OFFICER OR EMPLOYEE** — The head (other than local elected officials) of any agency, department, division, council, board, commission or bureau of the town and their deputies and assistants, and the officers and employees of such agencies, departments, divisions, boards, bureaus, commissions or councils who hold policy-making positions as annually determined by the appointed authority and set forth in a written instrument which shall be filed by the appropriate body 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.

**MINISTERIAL MATTER** — The same meaning as ascribed to such term by Subdivision 1 of § 73 of the Public Officers Law, as amended or changed.

**MUNICIPAL OFFICER OR EMPLOYEE** — An officer or employee of the town, whether paid or unpaid, including members of any administrative board, commission or any 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 Fire Chief or Assistant Fire Chief.

**RELATIVES** — Such individuals, spouse, child, stepchild, stepparent or any person who is a direct descendent 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 or apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to:

- A. A judicial order, decree or judgment; or
- B. A legally binding separation agreement.

**TOWN** — The Town of Irondequoit.

**UNEMANCIPATED CHILD** — Any son, daughter, stepson or stepdaughter who is under the age of 18, unmarried and living in the household of the appropriate individual.

#### **§ 20-4. Conflicts of interest.**

- A. Except as provided in § 802 of the General Municipal Law, as amended or changed:
  - (1) No municipal officer or employee or local elected official or local officer or employee shall have an interest in any contract with the town when such officer or employee, individually or as a member of a board, has the power or duty to:
    - (a) Negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder.

- (b) Audit bills or claims under the contract.
  - (c) Appoint an officer or employee who has any of the powers or duties set forth above.
- (2) No chief fiscal officer, treasurer or his or her deputy or employee 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.
- B. No municipal officer or employee or local elected official or local officer or employee shall engage in any act which is in conflict or gives the appearance of conflict with the performance of his or her official duties. A municipal officer or employee is prohibited from and deemed to have a conflict of interest if he or she:
- (1) Directly or indirectly solicits any gift having a 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 her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended to be an award for any official action on his or her part;
  - (2) Discloses confidential information acquired by him or her in the course of his or her official duties or uses such information to further his or her personal interests;
  - (3) Receives or enters into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any town agency of which he or she is an officer, member or employee or of any town agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee;
  - (4) Receives or enters into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the town whereby his or her 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 services rendered; or
  - (5) Willfully engages in any business transaction or professional activity or shall have a financial or any other private interests, direct or indirect, or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her official duties, unless he or she abstains from voting or otherwise officially acting with respect to the subject matter affected.
- C. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.
- D. In addition to the foregoing regulations, Article 18 of the General Municipal Law, entitled "Conflicts of Interest of Municipal Officers and Employees," is incorporated as part of this chapter as if the same had been set forth in full, together with any amendments of or additions to said Article hereafter adopted by the Legislature.
- E. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this section may be fined, suspended or removed from office or employment in the manner provided by law.

**§ 20-5. Disclosure of interest required.**

- A. Any municipal officer or any employee or local elected official or any local officer or employee who has, will have or later acquires an interest in any actual or proposed contract with the

town shall publicly disclose the nature and extent of such interest, in writing, to the Town Board thereof as soon as he or she has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body, and a copy shall be forwarded to the Town Clerk to be kept in a separate file. Once disclosure has been made by an officer or employee with respect to an interest in a contract with a particular person, firm, corporation or association, no further disclosures need be made by such officer or employee with respect to additional contracts with the same party during the remainder of the fiscal year.

- B. Any municipal officer or any employee or local elected official or any local officer or employee, agent or representative of the town who has or later acquires an interest in any actual or proposed transaction or matter with the town shall disclose the nature and extent of such interest, in writing, to the Town Board as soon as he or she has knowledge of such actual or prospective interest. Such written disclosure shall be referred by the Town Board to the Board of Ethics for opinion and decision, in writing, and a copy shall be forwarded to the Town Clerk to be kept in a separate file.

#### **§ 20-6. Board of Ethics.**

- A. The Town Board of the town has previously established a Board of Ethics by resolution adopted on the sixth day of August 1987, and this chapter confirms the establishment of said Board of Ethics pursuant to § 808, Subdivision 3, of the General Municipal Law, as amended or changed, to ensure compliance with the requirements of this chapter and to review all claims of conflict of interest. The composition of the Board of Ethics (hereinafter referred to throughout this chapter as the "Board") shall be as set forth below.
- B. The Board shall consist of five members appointed by the Town Board, a majority of whom are not otherwise officers or employees of the town, who shall serve without compensation for terms of five years. The original members selected shall serve at staggered terms of five years, four years, three years, two years and one year. Such Board shall include at least one member who is an elected or appointed town officer or employee.
- C. The powers and duties of the Board shall include but not be limited to the following:
  - (1) Acting as the sole and exclusive repository for completed annual financial disclosure forms filed pursuant to § 20-7 and reviewing the same for possible conflicts of interest.
  - (2) Adopting, amending and rescinding rules and regulations to govern procedures of the Board 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 may request an additional period of time within which to file such statement due to justifiable cause or undue hardship; such rules or 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.
  - (3) Promulgating guidelines to assist the Town Board in determining which persons hold policy-making positions for purposes of § 20-7 of this chapter.
  - (4) Making available forms for annual statements of financial disclosure required to be filed pursuant to § 20-7 of this chapter.
  - (5) Reviewing completed financial disclosure statements in accordance with provisions of § 20-7.
  - (6) Receiving and hearing all sworn complaints alleging any violations of this chapter upon the written request of any individual. This request must be signed by the individual complainant and must include his or her address.
  - (7) Permitting any person required to file a financial disclosure statement to request the Board to delete from the copy thereof made available for public inspection one or more

items of information, which may be deleted by the Board upon a finding by a majority of the total number of members of the Board without vacancy that 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, in its notification of denial, shall inform the person of his or her right to appeal the Board's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to Subsection H of this section.

- (8) 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 upon a finding by a majority of the total number of members of the Board without vacancy that the reporting individual's 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. If such request for exemption is denied, the Board in its notification of denial, shall inform the person of his or her right to appeal the Board's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to Subsection H of this section.
  - (9) Permitting any person who has not been determined by his or her appointing authority 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 rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the Board 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, 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, as amended or changed;
    - (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; or
    - (d) The adoption or repeal of any rule or regulation having the force and effect of law.
- D. 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 prevent undue complication in complying with the requirements of such section.
- E. The Board shall inspect all financial disclosure statements filed with the Board to ascertain whether any person subject to the reporting requirements of this chapter has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of any provision of this chapter or Article 18 of the General Municipal Law, as amended or changed.
- F. If a person required to file a financial disclosure statement with the Board has failed to file a disclosure statement or has filed a deficient statement, the Board shall notify the reporting person, in writing, state the failure to file or detail the deficiency, provide the person with a fifteen-day period to cure the deficiency and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential if the person makes

such filing or cures the deficiency within the specified time period. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Board shall send a notice of delinquency:

- (1) To the reporting person; and
- (2) To the appointing authority for such person.

G. If a reporting person has filed a statement which reveals a possible violation of this chapter or the Board receives a sworn complaint alleging such a violation or if the Board determines on its own initiative to investigate a possible violation, the Board shall notify the reporting person, in writing, describe the possible or alleged violation of this chapter and provide the person with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as possible or alleged violation of law. If the Board 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 except if the Board determines that there is a violation or that any potential conflict of interest violation has not been rectified. If the Board determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause:

- (1) To the reporting person;
- (2) To the complainant, if any; and
- (3) To the appointing authority for such person.

H. The Board shall be deemed to be an agency within the meaning of Article 3 of the State Administrative Procedure Act, as amended or changed, and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under Article 78 of the Civil Practice Law and Rules, as amended or changed, relating to the assessment of the civil penalties herein authorized and Board denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in Subsection C(7) or (8) of this section. 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, as amended or changed, but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or Board denial of such a request shall be final unless modified, suspended or vacated within 30 days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and, upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the Board pursuant to Article 78 of the Civil Practice Law and Rules, as amended or changed.

- I. A copy of any notice of delinquency or notice of reasonable cause sent pursuant to Subsections F and G of this section shall be included in the reporting person's file and be available for public inspection if the same is not confidential as provided in said Subsections F and G.
- J. Upon written request from any person who is subject to the jurisdiction of the Board, the Board shall render advisory opinions on the requirements of this chapter. An opinion rendered by the Board, until and unless amended or revoked, shall be binding on the Board 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 may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.

- K. Notwithstanding the provisions of Article 7 of the Public Officers Law, as amended or changed, no meeting or proceeding of the Board shall be open to the public except if expressly provided otherwise by the Commission.
- L. Any opinion of the Board expressing a conflict of interest shall be made public pursuant to the rules and regulations adopted by the Board.
- M. The Board shall have such other powers and duties as provided to the Commission pursuant to § 813 of the General Municipal Law, as amended or changed.
- N. The Town Board shall appropriate necessary and sufficient moneys for the maintenance and personal services to be provided by the Board.

**§ 20-7. Annual financial disclosure; violations; penalties. [Amended 2-4-1997 by L.L. No. 1-1997; 12-15-1998 by L.L. No. 8-1998]**

The Town of Irondequoit recognizes that matters of finance do exist which are so personal in nature and are so unrelated to the performance and duties of a municipal officer or employee that no useful purpose can be served by such disclosure. Nonetheless, certain financial information may be relevant to the duties of a municipal officer or employee and impact upon the integrity of the town government, and to that end:

- A. All elected town officials, department heads and their deputies and assistants, policymakers and those officers and employees whose duties involve the negotiation, authorization or approval of any of the matters listed in § 813, Subdivision 9k(i) through (iv), of the General Municipal Law, as amended or changed, and each candidate for elected town office shall file with the Board an annual statement of financial disclosure containing the information and in the form set forth in Appendix A Editor's Note: Said Appendix A is on file in the Town Clerk's office. as the same may be amended from time to time by the Town Board, provided that any such amendment to the disclosure statement shall provide for not less than the minimum level of financial disclosure as required by Article 18 of the General Municipal Law, amended or changed. Such statements shall be filed only with the Board within 90 days after the effective date of this chapter or within 30 days of taking office and no later than the 15th day of May with respect to the preceding calendar year. The time for filing such statements may be extended, pursuant to the rules and regulations adopted by the Board for justifiable cause and/or undue hardship, upon application to the Board. For the purposes of this section, all persons required to file an annual statement of financial disclosure will be referred to as "employees."
- B. Those municipal officers or local employees or local elected officials or municipal officers and employees who are required to file an annual statement of financial disclosure as required in Subsection A above are as follows:
  - (1) Chief fiscal officer.
  - (2) Members of the Town Board.
  - (3) Town Attorney and any Deputy Town Attorney(s).
  - (4) Director of Development Services and any assistants.
  - (5) Assessor.
  - (6) Commissioner of Public Works/Superintendent of Highways and any deputy(ies) or assistant(s).
  - (7) Director of Planning and Zoning.

- (8) Chief of Police and all Captains.
  - (9) Director of Parks and Recreation and any assistant(s).
  - (10) Members of the Zoning Board of Appeals.
  - (11) Members of the Planning Board.
  - (12) Fire Marshal and any deputy(ies).
  - (13) Town Clerk and any Deputy Town Clerk(s).
  - (14) Library Board of Trustees.
  - (15) Sea Breeze Commissioners of Fire and Water Districts.
  - (16) Comptroller.
  - (17) Budget Officer.
- C. All statements filed with the Board shall become a public record except for categories of amount and except for those matters deleted or exempted in accordance with § 20-5 above.
- D. Any part of a financial disclosure statement that has been granted confidentiality or exempt status by the Board pursuant to the employee's request shall be maintained by the Board as confidential information. It shall be a violation for any Board member or any other individual, except for the employee who filed the statement, to disclose any information that has been granted confidential and/or exempt status. Such violation shall be punishable by a fine of not more than \$500, as may be determined by the Board.
- E. If the Board, in accordance with its rules and regulations, determines that any part of a financial disclosure statement filed with it which has not been granted confidentiality or exempt status by the Board pursuant to a request by the employee should be made public, the same will be filed with the Town Clerk as a public record, and any part of the statement which has been granted exemption or deletion by the Board shall be deleted before the same is so filed, and the original information shall be retained by the Board pursuant to Subsection D above. Categories of amounts shall be confidential.
- F. If, after review of the statement, the Board determines that a conflict of interest exists or that there appears to be an impropriety that could reflect upon the integrity of the town government, the Board shall take the following procedures:
- (1) The Board shall specify by written opinion that a conflict or impropriety exists, stating its findings and the basis for its opinion, and shall mail its opinion by certified mail, return receipt requested, to the employee at the address listed on his or her personal record and notify the Town Board. Such opinion shall be confidential.
  - (2) The employee shall have 15 days from the date he or she receives the opinion from the Board to respond, rebut or refute the Board's findings.
  - (3) The Board may recommend to the employee a manner in which the conflict of interest or appearance of impropriety may be rectified.
  - (4) If the employee fails to respond to the Board within 15 days of the receipt of the Board's opinion of impropriety or if an agreement to eliminate the conflict cannot be reached with the employee, acceptable to the Board, the Board shall publicly disclose the employee's statement or relevant portions of such statement along with the Board's opinion by filing them with the Town Clerk.
  - (5) The Board shall determine such penalties for violation of any provision of this chapter in accordance with § 813 of the General Municipal Law, as amended or changed.

**§ 20-8. Conflicts with other codes of conduct.**

- A. Recognizing the need for professional integrity and the fact that various professional associations have set down standards of conduct for their members, the town hereby requires that each officer or employee who is affected by a professional Code of Ethics be bound, in addition to the within chapter, by their respective Codes of Ethics. Any conflict between the provisions of this chapter and a given officer's or employee's professional code of conduct is to be resolved by the Board of Ethics. However, the Board of Ethics must at all times give the greatest latitude to said individual's professional code of conduct and, whenever possible, reconcile the within chapter to complement and respect the individual's professional code of conduct.
- B. Substantial consideration shall be given to the effect deviation from an individual's professional code of conduct will have on that individual's ability to practice his or her profession. If need be, the Board of Ethics is authorized and required to obtain advisory opinions from the appropriate professional association to clarify any given situation.

**§ 20-9. Distribution.**

- A. Pursuant to § 807 of the General Municipal Law, as amended or changed, the Supervisor shall cause a copy of this chapter and Article 18 of the General Municipal Law, as amended or changed, to be made available to all officers and employees of the town within 30 days from the enactment of this chapter or as soon thereafter as practical. The Supervisor shall also cause a copy of this chapter and Article 18 of the General Municipal Law, as amended or changed, to become posted in each public building under the jurisdiction of the town in a place conspicuous to its officers and employees and have copies of the same made available for public inspection at the Town Clerk's office.
- B. 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 the provisions thereof. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 20-10. Penalties for offenses.**

Any person willfully violating this Code of Ethics shall be guilty of a misdemeanor punishable in accordance with the provisions of Article 18 of the General Municipal Law, as amended or changed.

- A. Any elected official guilty of a negligent violation of this chapter shall be subject to penalties as provided and shall be subject to a civil penalty of loss of pay not to exceed one month's salary. In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this chapter, any person or organization which willfully attempts to secure preferential treatment in its dealings with the town by offering any valuable gifts, whether in the form of service, loan, thing or promise, in any form to any town official or employee, shall have its current contracts with the town canceled and shall not be able to bid on any other town contract for a period of two years.
- B. An employee of the town found guilty of a negligent violation of this chapter shall be subject to civil penalties up to and including termination from employment and/or loss of pay not to exceed one month's salary.
- C. Members of boards and commissions found guilty of a negligent violation of this chapter shall be subject to immediate removal from such appointment.

**§ 20-11. Construal with statute.**

In the event that there are any inconsistencies between this chapter and Article 18 of the General Municipal Law, as amended or changed, said Article 18 shall control.

