



<a href="#">Index</a>	<b>City of Glens Falls, NY</b>	Search <input type="text"/>
<a href="#">New Laws</a>	<a href="#">Help</a>	<a href="#">Print</a>
<a href="#">CHAPTER 3. ASSESSMENT PROGRAM, COORDINATED</a>		<a href="#">CHAPTER 17. HUMAN RESOURCES DEPARTMENT</a>

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[Jump to Content](#)

[CHAPTER 15. ETHICS, CODE OF](#)

- [§ 15-1. Title.](#)
- [§ 15-2. Declaration of policy.](#)
- [§ 15-3. Legislative authority; effect on other legislation.](#)
- [§ 15-4. Definitions.](#)
- [§ 15-5. Code of Ethics.](#)
- [§ 15-6. Disclosure.](#)
- [§ 15-7. Ethics Board.](#)
- [§ 15-8. Penalties.](#)

## Chapter 15. ETHICS, CODE OF

**[HISTORY: Adopted by the Common Council of the City of Glens Falls 2-20-1997 by L.L. No. 2-1997.**

*Editor's Note: This chapter superseded former Ch. 15, Ethics, Code of, adopted 12-2-1970 as Ch. 46 of the 1967 Code.*

**Amendments noted where applicable.]**

### § 15-1. Title.

This chapter of the Code of the City of Glens Falls shall be known as the "Code of Ethics of the City of Glens Falls."

### § 15-2. Declaration of policy.

Pursuant to the provisions of § 806 of the General Municipal Law, the Common Council of the City of Glens Falls recognizes that there are rules of ethical conduct for public officers or employees which must be observed if a high degree of moral conduct is to be obtained and a 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 City of Glens Falls. These rules shall serve as a guide for official conduct of the officers and employees of the City of Glens Falls. 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.

### § 15-3. Legislative authority; effect on other legislation.

The Common Council of the City of Glens Falls does hereby enact the Code of Ethics of the City of Glens Falls pursuant to the authority and provisions of § 806 of the General Municipal Law. All prior local laws, ordinances or resolutions or parts of local laws, ordinances or resolutions of the City of Glens Falls inconsistent with the provisions of this chapter are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and in all respects this chapter shall be in addition to other legislation regulating and governing the subject matter covered by this chapter.

**§ 15-4. Definitions.**

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

**APPEARANCE OF IMPROPRIETY**

Conduct which, while not constituting an immediate violation of § 15-5, Code of Ethics, exhibits characteristics of a violation of the Code of Ethics and raises doubt as to the independence of the individual's judgment.

**CHILD**

Any son, daughter, stepson or stepdaughter.

**CONFLICT OF INTEREST**

Any beneficial personal interest an official or employee may have in any matter or transaction which may result in an unnecessary expense or loss to the city or may be adverse to or detrimental to and not in the best interests of the city.

**DOMESTIC PARTNER**

Any adult mate living in the same household.

**EMPLOYEE or OFFICIAL**

Any elected or appointed official or employee of the City of Glens Falls, whether paid or unpaid, who is a member of one or more of the boards, commissions, departments or agencies listed below or who serves in any capacity listed below. The Glens Falls Common Council reserves the right to add new classes of officials or employees under this definition (as deemed appropriate).

- (1) Common Council.
- (2) Cemetery Commission.
- (3) Board of Health.
- (4) Board of Public Safety.
- (5) Ethics Board.
- (6) Planning Board.
- (7) Board of Water/Sewer Commissioners.
- (8) Zoning Board of Appeals.
- (9) Local Development Corp.
- (10) Urban Renewal Agency.
- (11) IDA.
- (12) Assessor.
- (13) City Clerk.
- (14) Deputy City Clerk.
- (15) Police Department Chief.
- (16) Fire Department Chief.
- (17) Treasurer.
- (18) Budget Coordinator
- (19) City Electrician.
- (20) Recreation Superintendent.

(21) Human Resources Director.

**[Amended 1-11-2011 by L.L. No. 2-2011]**

(22) Water and Sewer Dept. Superintendent.

(23) Building Inspector & Code Enforcement Officer.

(24) Transportation Director.

(25) Public Works Superintendent.

(26) Community Development Director.

(27) Safety Director.

(28) Data Processing Director.

(29) Health Officer.

(30) Mayor's Assistant.

(31) City Attorney.

(32) Assistant City Attorney.

(33) Cemetery Superintendent.

(34) Purchasing Officer.

(35) Economic Development Director.

(36) Insurance Coordinator.

(37) City Forester.

(38) Recreation Commission.

(39) Tree Commission.

(40) Conservation Commission.

**INTEREST**

A direct or indirect pecuniary or material benefit accruing to an official or employee as the result of a contract, business or professional transaction or other relationship with the City of Glens Falls. For the purpose of this article, an official or employee will be deemed to have an interest in the affairs of the following:

(1) His or her spouse, domestic partner, children, parents, and siblings.

(2) A firm, partnership or association of which he or she is a member or employee.

(3) A corporation of which he or she is an officer, director, employee or in which he or she owns 5% or more of any outstanding shares in any class of stock.

**SPOUSE**

The husband or wife of the employee or official unless living separate and apart from the employee or official.

**UNETHICAL CONDUCT**

Conduct in violation of the provisions of § 15-5, Code of Ethics.

- B.** Incorporated herein by reference are all other definitions set forth in §§ 800 and 810 of Article 18 of the General Municipal Law.

**§ 15-5. Code of Ethics.**

- A.** Prohibited activities. It is the policy of the City of Glens Falls that all officials and employees must avoid potential conflicts of interest. A potential conflict exists whenever an official or employee has an interest, direct or indirect, which conflicts with his or her duty to the city or that adversely affects the individual's judgment in the discharge of his or her responsibilities to the city. Therefore, officials or employees:

- (1) Shall not take any action or participate in any matter whatsoever in his or her official capacity in the negotiation or awarding of any contract or in business or professional dealings with the City of Glens Falls or any agency thereof in which the official or employee has or will have an interest, direct or indirect.
- (2) Shall not engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her duties.
- (3) Shall not solicit, directly or indirectly, any gift or receive any gift, whether in any form or money, service, loan, travel, entertainment, hospitality, or any form under circumstances in which it could reasonably be inferred that the gift was intended to influence the performance of his or her duties or would be intended as a reward for any official action on his or her part.
- (4) Shall not appear, after termination of service or employment with the City of Glens Falls, before any board or agency in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment; however, he or she may appear before the applicable board or agency if so requested.
- (5) Shall not disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interests.
- (6) Shall not accept employment or engage in any business which will require him or her to disclose confidential information which he or she gained by reason of his or her position or authority.
- (7) Shall not take action on a matter before the Common Council or any instrumentality thereof when to his or her knowledge the performance of that action would provide a pecuniary or material benefit to himself or herself.
- (8) Shall not pursue a course of conduct which will raise suspicions among the public that he or she is likely to engage in acts that are in violation of his or her public trust.

- B.** Disclosure of interest. In cases of conflict of interest or the possibility of a conflict of interest, a city official or employee must make a full disclosure of that conflict of interest for the official record.

**C.** Annual Code of Ethics review.

- (1) Every official and employee, defined in § 15-4 is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the City of Glens Falls. Such attestation shall be made on or before April 1 each year.
- (2) Newly appointed or elected officials or employees whose duties commence after April 1 filing deadline will be required to submit a Code of Ethics review form within 30 days after commencement of duties.
- (3) The penalties for failing to comply with Subsection B(1) and (2) of this section will be the same as those provided for in § 15-8, Penalties.

**§ 15-6. Disclosure.**

- A. All officials and employees, as listed in § 15-4, of the City of Glens Falls shall file a statement of disclosure containing the information asked for on the statement of disclosure form contained herein. The form will be filed with the Glens Falls Ethics Board no later than April 1. The City Clerk's office shall constitute the repository of the Glens Falls Ethics Board, where all such forms referred to herein shall be filed.
- B. Newly appointed or elected officials or employees, whose duties commence after the April 1 filing deadline, will be required to submit a disclosure form within 30 days after the commencement of duties. The disclosure will cover the twelve-month period prior to the date of filing.
- C. Within 30 days of any change in the information contained in his or her most recently filed statement, the official or employee will file a signed amendment to the statement reflecting that change.
- D. The Mayor's office will verify that each official or employee subject to this chapter has filed his or her statement and will forward these forms to the Ethics Board Chairperson.
- E. Upon termination of any official's or employee's employment or position with the city, the official or employee shall be entitled to retain his/her file containing all original disclosure materials provided pursuant to this code. The City shall not retain any material so provided by the official or employee unless the official or employee receives an affirmative sanction for conduct in violation of this Code pursuant to § 15-7E of this code.

**§ 15-7. Ethics Board.**

- A. The Board of Ethics shall consist of at least five members to be appointed by the Common Council, all of whom reside in the City of Glens Falls, and who shall serve without compensation and at the pleasure of the Common Council of the City of Glens Falls. A majority of such members shall be persons other than city employees, but shall include at least one member who is an elected or appointed employee of the City of Glens Falls.
- B. Functions. The Board of Ethics shall render advisory opinions to the city employees and Common Council upon written request, as well as make recommendations to the Common Council as to any amendments to this chapter. The opinion of the Board of Ethics shall be confidential. In no event shall the identity of the city employee be disclosed except to authorized Glens Falls city officials and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the City of Glens Falls Attorney.
- C. Responsibilities.
  - (1) The Ethics Board will meet as necessary. At its meetings, the Ethics Board will receive and consider complaints of conflicts of interest or instances of unethical conduct.
  - (2) Where the Ethics Board deems a conflict of interest or other conduct adversely reflecting on the integrity of the city government does exist, and, if in the opinion of the majority of the members of the Ethics Board such conflict warrants it, the Ethics Board will cause and direct relevant information pertaining to the conflict of interest or unethical conduct of the official or employee to be filed with the Common Council.
  - (3) Prior to the filing of the opinion of the Ethics Board with the Common Council, a copy will be mailed to the official or employee by certified mail, return receipt requested. The official or employee may respond, rebut or otherwise refute the opinion of the Ethics Board in person before the Board at a time and place specified by the Board. The failure by the official or employee to respond within 30 days from the date the opinion is received will constitute a waiver by that official or employee. The Ethics Board, by majority vote, may, at its discretion, amend, revise, or rewrite its opinion or rescind its initial decision.

- (4) In addition, the Ethics Board may recommend to the official or employee a manner in which the conflict of interest or appearance of impropriety may be rectified. An affidavit by the official or employee detailing his or her compliance with the recommendations may be sufficient reason to rescind the decision of the Ethics Board. The affidavit must be delivered to the Board at the time and place set forth in the Board's certified, return-receipt-requested letter to the official or employee. If the official or employee fails to follow the recommendations of the Ethics Board in resolving the conflict, that fact will be disclosed to the Common Council as well.
- (5) Pending the response of the official or employee and final resolution of an issue, the Ethics Board will not disclose any information to the Common Council.
- (6) The Ethics Board will have the power and duty to conduct any necessary investigations. All such investigations will be conducted in executive session.
- (7) The only records of the Ethics Board which will be available for public inspection are the minutes of open meetings.
- (8) Out-of-pocket expenses and undertakings incurred by the Ethics Board or its members in carrying out its function may be submitted to the Common Council for reimbursement or payment as the case may be via whatever voucher procedures are then applicable.

#### D. Voting procedures.

- (1) A quorum is necessary for any voting throughout the complaint process.
- (2) A quorum is attained when at least three members of the Ethics Board are present.
- (3) A majority is attained when more than half of the Board members vote in a similar manner.

#### E. Complaint procedures.

- (1) Any officer or employee of the City of Glens Falls who would like to raise a complaint must file six copies of said complaint with the Ethics Board on the forms provided for that purpose. A member of the public wishing to make a complaint must seek sponsorship of a complaint through any officer or employee of the City of Glens Falls, including but not limited to members of the Common Council.
- (2) The Board will review and respond within 30 days of receipt of the complaint forms. At this point, a vote on whether the scope of the complaint falls within the Board's function will be taken, with the person(s) being notified of any action taken. If no action is taken, only the person(s) initiating the complaint will be notified of the inaction.
- (3) If the complaint falls within the Board's function, within 30 days of the Board's initial response the person(s) will be scheduled to appear before the Board to address the complaint. This phase will be an initial fact-finding meeting with the persons initiating the complaint. The Board will call for another vote on whether to further investigate the complaint. The person(s) filing the complaint will be notified of the Board's decision. Failure to appear will result in the automatic dismissal of the complaint.
- (4) If an investigation is warranted, the person(s) under investigation will be notified that such an action is underway. The Board will schedule a meeting with the person(s) mentioned in the complaint within 30 days of the mailing of the notice. Following the scheduled meeting, the Board will take a vote on whether to continue with a full investigation, with all parties given written notification of the Board's decision.
- (5) Upon completion of the investigation, the Board will issue a recommendation to the Common Council in executive session, along with the Board's advice on the proper course of action.
- (6) All relevant documents (including but not limited to original complaint forms, notification forms, decision forms with explanation) will be kept on permanent file.

(7) All correspondence to the Board must be sent registered mail.

**§ 15-8. Penalties.**

- A.** Any official or employee who engages in any action that violates any provision of this Code of Ethics may be warned or reprimanded or suspended or removed from office or employment or be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal or other authorized sanction may be imposed in addition to any other applicable penalty contained in any other provision of law. The appointing authority or person authorized by law to impose the sanctions described in this section shall be guided by the requirements otherwise described in this Code of Ethics.
- B.** If any official or employee files a statement with the intent to deceive, intentionally misrepresent, or otherwise to withhold fraudulently any information asked for or demanded in the statement, and if any deception or misrepresentation is found by the Ethics Board to be both intentional and material, then such official or employee shall be terminated immediately as provided by law.
- C.** Nothing in this section will be construed as precluding the prosecution of officials or employees for violations of any offense, criminal or civil, pursuant to the laws, statutes or ordinances of the State of New York.
- D.** Any appointed official or employee who is dismissed from his or her position by virtue of a violation will be prohibited for a period of three years after the date of such dismissal from a service as an official or employee as listed in § 15-4.

<a href="#">Prev</a>	<a href="#">Top</a>	<a href="#">Next</a>
<a href="#">Change Views</a>	<a href="#">Contents</a>	
<a href="#">Privacy Policy</a>	<a href="#">Help</a>	<a href="#">Terms of Service</a>