

Town of Queensbury, NY
Monday, December 5, 2011

Chapter 14. ETHICS, CODE OF

**[HISTORY: Adopted by the Town Board of the Town of Queensbury 3-17-1997 by L.L. No. 1-1997.
Editor's Note: This local law repealed former Ch. 14, Ethics and Disclosure, adopted 7-20-1992 by L.L. No. 8-1992.
Amendments noted where applicable.]**

§ 14-1. Title.

This chapter shall be titled "Code of Ethics."

§ 14-2. Statutory authority.

The authority for this chapter is § 806 of the New York State General Municipal Law.

§ 14-3. Purpose.

[Amended 5-7-2007 by L.L. No. 1-2007]Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Queensbury recognizes that there are rules of ethical conduct for public officers, employees, and consultants 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. The proper operation of the Town government requires that its officers, employees, and consultants be independent, impartial, objective, unbiased and responsible to the people of the Town of Queensbury; that public office should not be used for personal gain; that public officers, employees, and consultants maintain the highest standards of integrity and discharge faithfully the duties of their office, regardless of personal considerations; and that the public have confidence in the officers and employees thereof. It is the intent of this chapter to promulgate these rules of ethical conduct for the officers, employees, consultants of the Town of Queensbury. These rules shall serve as a guide for official conduct of the officers, employees, and consultants of the Town and, 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.

§ 14-4. Definitions.

[Amended 5-7-2007 by L.L. No. 1-2007]As used in this chapter, the following terms shall have the meanings indicated:

COLLUSION

Where a Town official or an employee enters into a covert cooperative arrangement or strategy that allows one party to gain an unfair advantage over a third party, competitors, consumers or those with whom they are negotiating, which undermines the competitive quality or fairness of a proposal or bid process.

CONFLICT OF INTEREST

A conflict of interest is a situation in which a person has a duty to more than one person or organization but cannot do justice to the actual or potentially adverse interests of both parties. This includes when an individual's personal interests or concerns are inconsistent with the best for the Town or when a public official's personal interests are contrary to his/her loyalty to public business. Town officials, employees, and consultants should avoid even the appearance of conflict. Town officials, employees, and consultants shall disclose any interest in or with any individual or entity providing services to or contracting with the Town. For example, a conflict of interest is (includes, but is not limited to):

A. The use of the authority of public office/employment or confidential information received by holding such a public position for the private pecuniary benefit of the public official/public employee himself, any member of his immediate family, or a business with which he or a member of his immediate family is associated. The term "business with which he is associated" is defined as any business in which the person or a member of the person's immediate family is a director, officer, owner, or employee or has a financial interest.

B. A state or condition of having a special interest in protecting or supporting something for the purpose of self-interest, gain or benefit, often financially or politically.

C. Serving a self-interest or showing favor to one bidder or proposer over another in a manner that injures the fairness of a bid or proposal process.

CONSULTANT

A person, paid or unpaid, providing advice to and at the request of a municipal board, committee, commission or other body, including persons licensed under Title VIII of the Education Law of the State of New York, providing to a municipal board, committee, commission or other body professional service as defined in § 1501, Subdivision (c), of the Business Corporation Law of the State of New York.

IMMEDIATE FAMILY

A spouse, minor child or other dependent of a municipal officer or employee.

INTEREST

Any claim, account or demand against or agreement with the Town, express or implied, and direct or indirect pecuniary or material benefit accruing to an officer or employee as a result of a business or a professional transaction with the Town or resulting from official Town acts. For the purpose of this chapter, an officer or employee shall be deemed to have direct interest in the affairs of:

A. His or her immediate family.

B. A business concern, partnership, trust or association of which such officer or employee and immediate family member are members, partners, owners, directors or employees.

C. A corporation of which such officer or employee is an officer, director or employee.

D. A corporation, any stock of which is owned or controlled, directly or indirectly, by such officer or employee or any corporation in which such officer or employee or immediate family member owns more than 5% of said stock.

MUNICIPAL OFFICER OR EMPLOYEE

Elected officials, public officers under the Public Officers Law, members of boards and commissions and department heads and their supervisory assistants of the Town of Queensbury or employee of the Town of Queensbury, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or emergency medical services volunteer. All persons employed by the Town of Queensbury not otherwise included within the definition of "officer, public officer and Town officer" set forth below.

OFFICER OR MEMBER IN A POLITICAL PARTY, CLUB OR ASSOCIATION, SOCIETY OR COMMITTEE

The office of chairman, secretary, treasurer and such other officer or member as the rules of the particular body may provide.

§ 14-5. Standards of conduct.

[Amended 5-7-2007 by L.L. No. 1-2007]Public officers and employees are agents of the public purpose and hold office for the benefit of the public. Their conduct in both their official and private affairs should be above reproach. Every officer and employee of the Town of Queensbury shall be subject to and abide by the following standards of conduct:

- A. Gifts. No officer, employee, or consultant of the Town shall, directly or indirectly, solicit any gift or accept or retain any gift having a value of more than \$25, whether in the form of money, services, loan, travel, entertainment, hospitality, things or promises, or 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 as a reward for any official action on his or her part. The recipient of any such gift or gratuity shall immediately return the same to the giver and shall notify the Town of Queensbury Board of Ethics, in writing, of the occurrence. This shall not apply to campaign contributions.
- B. Disclosure of confidential information. No officer, employee or consultant of the Town should disclose confidential information acquired by him or her in the course of his or her official duties if such information will further his or her personal interests or the private interests of others.
- C. Representation before one's own agency. No officer, employee, or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- D. Representation before one's own agency for a contingent fee. No officer, employee, or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee or 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 the services rendered.
- E. Disclosure of interest.
- (1) If any Town officer, employee or consultant has a potential or actual conflict of interest in any matter which he or she encounters in the performance of his or her official Town duties, he or she shall make known to all concerned parties the nature of such conflict and shall refrain from voting or otherwise acting in the matter so as to avoid an actual conflict. In all cases of potential or actual conflict, the Town Board shall be made aware of the situation by the person in conflict. This disclosure shall be made part of the official record and be on a form provided by the Town Clerk which shall disclose the nature of the conflict. A copy of this filed form shall be kept in a separate place by the Town Clerk for the public record.
 - (2) All Town officers are required, within 30 days of taking office, or within 30 days of the effective date of this chapter, to file a disclosure statement on a form as provided by the Town of Queensbury pursuant to this section. In the event that a change occurs with respect to any information required on the aforesaid disclosure statement, the party required to file such a statement shall file an amended statement reflecting any such change in circumstances within 60 days from the date thereof, unless requested by the Board of Ethics to do so sooner, in which case an amended statement shall be filed within 10 days of the request for the same. Failure to file the required disclosure statement or any amendment thereto in a timely fashion shall be deemed a violation of this chapter.
 - (3) Elected Town officials shall disclose campaign contributions of \$100 or more from a person or entity who is specifically and significantly affected, positively or adversely, by an action of the Town Board. Such disclosure requirement applies to contributions made within the previous two years prior to the date of the relevant Town Board resolution and shall be made through inclusion within the relevant Town Board resolution.
- F. Investments in conflict with official duties. No officer, employee, or consultant shall invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties.

- G. Private employment. No officer, employee, or consultant shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.
- H. Future employment. No officer, employee, or consultant shall, after the termination of service or employment with the Town of Queensbury, appear before any board or agency of the Town of Queensbury in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration. In the case of a Town Board member, no such member shall appear in relation to any legislative action in which he participated for a period of two years after leaving office.
- I. The Town Board wishes to create a work environment for its employees free of undue political influence. Opinions from employees of the Town should be offered freely and without fear; job security should not be guiding their opinion. As such, any employee who has been urged to, or commanded to, write letters of support, or vocalize in any format, by an entity (be it Town Supervisor, Councilman, or otherwise) which he or she feels is more representative of special interests, and not in accord with the public's interest, should report such to the Town Board.
- J. The Town Board wishes to address and identify inappropriate relationships and activities, such as collusion, particularly with entities that are doing business with the Town. For example, the Town should prohibit doing business with entities that have political influence over the political careers of Town officers or a political relationship that may have undue influence over a Town Board member, a relationship which might hinder the spirit of fair, open and transparent competition.
- K. Nepotism.
- (1) Every public officer and every municipal employee related closer in degree, by blood or by marriage, than first cousin to any persons seeking employment within any department, section or function of the Town shall disclose such relationship as provided for pursuant to the further provisions of this section.
 - (2) Every member of any municipal board, agency, commission or other municipal body (exclusive of committees) related closer in degree, by blood or by marriage, than first cousin to any applicant for appointment to or to any person seeking employment by or on behalf of such board, agency, commission or other municipal body (exclusive of committees) shall disclose such relationship as provided for pursuant to the further provisions of this section.
 - (3) The disclosures required by this section shall be made in writing, directed to the Town Clerk, and made at the earliest opportunity following the date upon which such public officer, municipal employee or member of any municipal body first learns or has knowledge of the making of such application by the person seeking such employment and/or appointment.
- L. Political activity. No municipal officer or employee shall use his or her official position to obtain, provide, furnish or supply any municipal resource (including but not limited to personnel services, equipment, supplies or facility) on behalf of any political party or candidate, political club or association or any political society or committee. This provision shall not be interpreted or construed as precluding any municipal officer or employee from being involved in the political affairs of the Town as a private citizen, nor shall it preclude any municipal officer or employee from soliciting and/or receiving campaign contributions in the course of a political campaign for public office conducted pursuant to the laws of the State of New York, nor shall it exempt any municipal officer or employee from any federal, state or local rules, regulations, codes of conduct or other restrictions imposed by law.
- M. Use of public property. No officer or employee shall request or permit the use of Town-owned vehicles, equipment, material or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such officer or employee in the conduct of official business.

§ 14-6. Ethics Board.

A. Formation. A local Ethics Board, to be known as the "Town of Queensbury Ethics Board," is established pursuant to § 808 of the General Municipal Law.

B. Members.

[Amended 9-15-1997 by L.L. No. 8-1997 Editor's Note: This local law also stated that it was intended to supersede the provision of New York General Municipal Law § 808, Subdivision 3, which requires that a local Board of Ethics established by the governing body of any municipality other than a county shall include at least one member who is an elected or appointed municipal officer or employee. ; 10-4-2004 by L.L. No. 9-2004; 5-7-2007 by L.L. No. 1-2007]

- (1) The Ethics Board shall consist of five members, each of whom shall be appointed upon a unanimous vote of all voting members of the Town Board, but there must be at least four affirmative votes. All members must reside in the Town of Queensbury. After written notice and opportunity to reply, any 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 chapter.
- (2) A Chairperson of the Ethics Board shall be elected by the majority vote of the members at the Board's first meeting and annually thereafter at a meeting to be held in January. Three members shall constitute a quorum. Members shall be appointed for a term of four years; provided, however, that two of the original appointees shall be appointed for an initial term of two years. Vacancies on the Board shall be filled by appointment by unanimous vote of the Town Board for the unexpired term of the former member. The members of the Ethics Board will not be compensated but will be reimbursed for reasonable expenses incurred in the performance of their duties.
- (3) Criteria for Ethics Board members. To assure an impartial and dispassionate membership:
 - (a) No member of the Ethics Board shall:
 - [1] Have any direct or substantial financial interest in any work or business or official action by the Town.
 - [2] Have, in the past two years, been a candidate for public office in a Town of Queensbury election.
 - [3] Currently hold office in any political party committee.
 - [4] Have an immediate family relationship with a Town employee.
 - (b) The Town Board seeks a diverse group of Ethics Board candidates who:
 - [1] Combine a broad spectrum of background, experience and expertise to be able to fairly assess the multitude and variety of ethics issues typically brought before them.
 - [2] Have the ability and willingness to recognize and disregard politically motivated petitions, as opposed to genuine ethical concerns, and render objective and independent decisions.
 - [3] Are without potential conflicts and where officials who seek advice about their own conduct can readily turn to the Board knowing that in doing so they are not revealing confidences to partisan opponents.

C. Review procedures.

- (1) The Ethics Board shall receive and review written complaints of alleged unethical behavior on the part of any Town officer or employee. Complaints may be made by any individual and must be

signed and contain the name and address of the person making the complaint. Within 30 days of receipt of a written complaint, the Ethics Board shall notify the affected person by certified mail of the alleged impropriety and offer him/her the opportunity to appear before the Ethics Board and/or submit a written response to the Board. In addition, the affected person may request that the person making the complaint be required to appear before the Ethics Board at the same time as the affected person. If the person making the complaint refuses or fails to appear, the complaint may be dismissed. All proceedings of the Ethics Board shall be closed to the public.

- (2) If, after its initial review of the complaint and the response of the person affected, the Board finds that the complaint appears to have some merit, it may require the affected person to submit a financial disclosure statement in the form then approved by the Town Board. Such financial disclosure statement shall be reviewed confidentially by the Ethics Board. Seven years after the Board has made its final determination regarding the alleged impropriety, the financial disclosure statement shall be returned to the affected person if requested or otherwise shall be destroyed in a manner that maintains its confidentiality.
- (3) If the Ethics Board determines that unethical behavior has occurred, it may recommend to the affected person a manner in which the impropriety may be rectified. An affidavit by the official or employee detailing his/her compliance with such recommendation may be sufficient to enable the Ethics Board to forgo any further measures.
- (4) If the Ethics Board determines that unethical behavior has occurred and that the impropriety cannot be rectified or the official or employee fails to comply with the Board's recommendations for rectifying the impropriety, the Board shall file with the Town Board a summary of the complaint, the Board's preliminary determination, any responses received from the person making the complaint and/or the affected Town official or employee and the Board's final recommendation. A copy of this report shall also be mailed to the person making the complaint and the affected Town official or employee. If the Town Board agrees with the Ethics Board's determination, the Town Board shall then determine what penalty, if any, to be imposed.
- (5) If the Ethics Board or Town Board determines that no ethical violation has occurred, then it shall so notify the affected Town official or employee and the person making the complaint and the proceeding shall be deemed closed.

D. Applicability to Ethics Board. The Town Board shall perform the functions of the Ethics Board described in Subsection C above when any member of the Ethics Board is the affected Town official or employee.

§ 14-7. Reservation of right to make claim against Town.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer or employee of a claim, account, demand or suit against the Town of Queensbury or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 14-8. Distribution of Code of Ethics.

[Amended 5-7-2007 by L.L. No. 1-2007]The Supervisor of the Town of Queensbury shall cause a copy of this Code of Ethics to be distributed to every officer, employee and consultant of the Town within 10 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment. The Town Clerk shall obtain each officer's and each employee's and each consultant's signature acknowledging receipt of this Code. Failure to distribute any such copy or failure of any officer, employee or consultant to receive such copy shall have no effect on the duty of compliance with such Code nor the enforcement of the provisions thereof.

§ 14-9. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this Code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.