

**RESOLUTION REPEALING CHAPTER 48 OF
THE CODE OF THE CITY OF PEEKSKILL,
ENTITLED "ETHICS" AND REPLACING IT WITH
A NEW CHAPTER 48 TO BE ENTITLED "ETHICS"
RESOLUTION ADOPTING LOCAL LAW № 4 OF 2011**

WHEREAS, on August 2, 2011, a proposal was placed on the desks of the members of the Common Council to repeal Chapter 48 of the Code of the City of Peekskill entitled "Ethics" and to replace it with a new Chapter 48 to be entitled "Ethics", and;

WHEREAS, on September 26, 2011, a public hearing was held on said proposal in the Common Council meeting room, City Hall, Peekskill, NY after due publication of said notice of Public Hearing, and;

WHEREAS, the public hearing was closed on September 26, 2011;

NOW, THEREFORE, BE IT

RESOLVED, that Article II of Chapter 48 of the Code of the City of Peekskill entitled "Ethics" is hereby repealed and shall be replaced with new Articles II and III, of Chapter 48 to be entitled "Ethics", in the form attached hereto, effective immediately, and be it further

RESOLVED, that Article I of the Code of the Code of the City of Peekskill entitled "Ethics" is hereby repealed and shall be replaced with a new Article I of Chapter 48 to be entitled "Ethics", in the form attached hereto, effective January 1, 2013.

ARTICLE I Code of Ethics (§ 48-1- § 48-9)

§ 48-1 Purpose and intent.

A. The Common Council of the City of Peekskill declares that it is the public policy of the City and the purpose of this chapter to establish standards and guidelines for ethical conduct of City Officials and Employees. These policies are best effectuated by:

- (1). Prescribing high ethical standards in an established Code of Ethics.
- (2). Requiring public disclosure by City Officials and Employees, as herein provided.
- (3). Creating a Board of Ethics to render advisory opinions and otherwise assist in the administration of this Chapter.
- (4). Prescribing meaningful sanctions and remedies to be imposed upon City Officials and Employees who violate the public trust.

B. 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.

§ 48-2 Definitions.

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

APPEAR -- Communicating in any form, including but not limited to personally, through another person, by letter or by telephone.

APPOINTING AUTHORITY – the Person who appointed the City Official or Employee.

BOARD MEMBER -- Any member of a City Body having approval authority limited to the Common Council, Planning Commission, Zoning Board of Appeals, Assessment Review Board, Landmarks Preservation Board, Ethics Board.

CITY --The City of Peekskill

CITY BODY—The City or any board, commission, council or other agency, department or bureau of the government thereof.

CITY OFFICIAL or EMPLOYEE -- Any official or employee of the City, whether paid or unpaid, including, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the city and all former employees acting as independent consultants. The terms "City Official" or "Employee" shall not include City Court Judge. No person shall be deemed to be a City Official or Employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief

CONTRACT

Any claim, account or demand against or agreement with the City, 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.

GIFT or FINANCIAL BENEFIT -- Includes, without limitation, money, services, food, drink, and entertainment provided in exchange for less than fair market value, licenses, permits, contracts, authorizations, loans, travel, any other gratuity, or any promise thereof. A financial transaction may be a financial benefit but shall not be a Gift unless it is on terms not available to the general public. Gifts and Financial Benefits shall not include authorized election campaign contributions.

IMMEDIATE FAMILY -- Spouse, domestic partner, child, stepchild, parent, grandparent or sibling.

INTEREST -- A participation, connection or involvement of any sort which may result in a direct or indirect pecuniary or material benefit. For the purposes of this chapter, the "interests" of a City Official or Employee shall be deemed to include the "interests" of:

- A. The City Official or Employee and his or her immediate family.
- B. Any Person, other than a bank, trust company or other lending institution, with whom he or she has a substantial debtor-creditor or other financial relationship.
- C. Any Person by whom he or she is employed or of which he is an officer, director or member.
- D. Any Person of which the stock or other legal or beneficial ownership is owned by him or her; provided, however, that if the business dealings of such Person with the City form an insubstantial part of the total business dealings, then this definition shall only apply to such a person if the City Official or Employee owns more than 5% of the stock or other legal or beneficial ownership of such Person.

MINISTERIAL ACT-- Any action performed in an official capacity, in a prescribed manner, without the exercise of judgment or discretion as to the propriety of the act.

OFFICIAL ACT OR ACTION --Any legislative, administrative, quasi-judicial, appointive or discretionary act of a City Official or Employee or a City Body.

PERSON -- Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind.

REPRESENT – Be entitled or appointed to act or speak for a Person.

TRANSACTION –Any activity, application or proceeding which requires or may require an official act or action of a City Official or Employee or a City Body.

§ 48-3 Standards of conduct.

Every City Official or Employee shall be subject to and abide by the following standards of conduct:

A. Gifts and Financial Benefits.

No City Official or Employee shall, directly or indirectly, solicit Gifts or Financial Benefits or accept or receive cash or any other Gifts in any given calendar year from any Person, having an aggregate value exceeding \$75, whether in the form of service, loan, travel, entertainment, food,

C. Representation.

A City Official or Employee shall not, with or without compensation, represent, directly or indirectly, any Person in connection with any transaction or contract before any City Body or court. This subsection shall not be applicable to those officials serving on a City Body in transactions where such official or employee appears on his or her own behalf.

D. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Common Council and any City Official or Employee, whether paid or unpaid, who participates in the discussion or gives official opinion to the Common Council on any legislation before the Common Council shall publicly disclose on the official record the nature and extent of any direct or indirect Financial Benefit or other Interest he or she has in such legislation.

E. Investments in conflict with official duties. Whenever a City Official or Employee holds any investment directly or indirectly in any financial, business, or commercial enterprise or other private investment, including but not limited to real property located in the City of Peekskill held for investment, which creates a conflict with his or her official duties, he or she shall provide public disclosure in accordance with §48-3.2 of this chapter and shall refrain from involvement in the matter which creates such conflict with his or her official duties.

F. Private employment. A City Official or Employee shall not engage in, solicit, negotiate for or promise to accept private employment or render services for a person when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.

G. Future employment. It shall be a presumptive conflict of interest for any former elected or appointive City Official or Employee, within one year after leaving office, to represent another Person before any City Body.

H. No City official or employee shall solicit or accept for an election campaign or for any other political purpose any favor or gift, in an amount exceeding \$1000 per election cycle, whether in the form of a service, loan, promise or material thing or in any other form, from any Person who does business with the City; from any Person whose business is licensed or regulated by the City; or from any Person who in the regular course of whose business must receive approval or authorization from any City Official or Employee or City Body. A City Official or Employee shall not knowingly request, or knowingly authorize anyone else to request, any subordinate of the Official or Employee to participate in an election campaign or contribute to a political committee.

I. The chairperson or vice chairperson of a political party in the City shall not serve as a Board Member.

J. Conflicts of interest and violations regarding applications.

- (1) It shall be deemed a conflict of interest requiring recusal for any Board Member to sit in judgment over an application in which he/she has an Interest.
- (2) It shall be deemed a violation of this Chapter for any Board Member to act upon any application, either affirmatively or by a failure to act, where to do so is based primarily upon the relationship (personal or business) of the Person appearing before the City Body to the Board Member.
- (3) Any Board Member who by his/her official position is acting upon an application in which he/she has no Interest, but such application involves: a relative outside his/her

M. Misuse of office. A City Official or Employee shall not use his or her official position or office, or take or fail to take action, in a manner which he or she knows or has reason to know may result in a Financial Benefit for any of the following persons:

- a. the City Official or Employee;
- b. his or her outside employer or business;
- c. his or her Immediate Family;
- d. a Person with which the City Official or Employee has had a financial relationship within the previous twelve months; or
- e. any person from which the City Official or Employee has received a Gift, or any goods or services for less than the market value, during the previous twelve months.

N. Recusal. A City official or employee shall promptly recuse himself or herself from taking official action on any matter when taking such action, or failing to take action, may financially benefit any of the Persons listed in subdivision M of this section.

O. Misuse of City resources. A City Official or Employee shall not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose nor engage in personal or private activities during the times when he or she is required to work for the City.

P. Inducement of others. A City Official or Employee shall not induce or aid another City Official or Employee to violate any of the provisions of this Code of Ethics.

Q. Avoidance of conflicts. A City official or employee shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment or a thing that would result in a violation of this Code of Ethics.

§ 48-3.1 Exclusions.

The provisions of § 48-3 of this Code of Ethics shall not prohibit or require abstention or recusal as a result of any of the following events:

A. Authorized actions. An action specifically authorized by statute, rule or regulation of the City, the State of New York or of the United States of America.

B. Ministerial acts.

C. Certain gifts. Gifts received by a City Official or Employee:

- (1) From a relative by blood or marriage.
- (2) Accepted on behalf of the City and immediately transferred to the City.
- (3) Having a value of \$100 or less for the solemnization of a marriage by that City Official or Employee at a place or hour other than his or her normal place or hours of business, pursuant to Section 805-b of the General Municipal Law.
- (4) Participation in social functions, dinners or programs of any public or private organization where the City Official or Employee is attending in his or her official capacity as a representative of the City.

D. Awards. Awards presented to City Officials or Employees by charitable, civic or educational organizations.

§ 48-3.2 Disclosure requirements.

A. Transactional disclosure. A City Official or Employee having an interest in a Transaction or contemplated Transaction shall, before any step in connection therewith is taken, file with the City Clerk a statement describing such Transaction and his/her interest therein. The Board of Ethics shall review all transactional disclosures to determine whether there is a possible or potential violation of this Chapter. If the Board of Ethics determines the disclosure reveals a potential violation of this Chapter, the Board shall provide notification of the potential violation to the City Official or Employee and the Official or Employee must refrain from both discussion and judgment on the Transaction. Thereafter, when any final action, decision or determination has been taken or made with respect to such Transaction by or on behalf of the City, notice of such action, decision or determination shall be filed with the Board of Ethics and the City Clerk. Transactional disclosure shall not be required for exclusions listed in § 48-3.1 of this chapter.

B. Applicant disclosure. Where any Person requests the City or a City Official or Employee to take, or fail to take, any action, other than a ministerial act, that may result in a Financial Benefit both to the requestor and to any City Official or Employee, the requestor shall disclose the names of any such Person and the extent of such benefit, to the extent known to the requestor at the time of the request. If the request is made in writing, the disclosure shall include the request. If the request is made on the public record, the disclosure must also be set forth in the public record at that time. If the request is oral and not on the public record, the disclosure shall be made in writing and filed with the City Clerk. The Board of Ethics shall review all applicant disclosure statements to determine whether the statement reveals a possible or potential violation of this chapter. If the board determines that a statement reveals a potential violation of this Chapter, the Board of Ethics shall provide notification of the potential violation and the penalties for failure to comply with this Chapter to the City Official or Employee.

C. Annual disclosure.

(1) An annual disclosure statement, in the form set forth in Article III of this Chapter, shall be submitted by each of the following City Officials or Employees:

(a) Elected City Officials.

(b) City Manager, Corporation Counsel, Assistant Corporation Counsel, City Marshals, City Clerk, and Comptroller.

(c) Department heads and their deputies. In relation to the Police Department, this requirement shall extend only to the Chief of Police, Captains and Lieutenants. For the Fire Department, this shall include Fire Chiefs, Assistant Fire Chiefs, and any other superior officers in the Department.

(c) Board Members.

(2) Annual disclosure; timing and content. Within ninety days after the effective date of this Chapter, and by March 15th of each year thereafter, the City Manager shall cause to be filed with the City Clerk a list of the names and offices or positions of all City Officials and Employees required to file annual disclosure statements and the City Clerk shall within 15 days of receipt of such list notify all such Officials and Employees of their obligation to file an annual disclosure statement. The annual disclosure statement shall by April 30th of each year be filed with the City Clerk who shall promptly submit all completed disclosure forms

violation of this Chapter. If the Board of Ethics determines that an annual disclosure statement is deficient or reveals a potential violation of this Chapter, the Board of Ethics shall provide notification of the deficiency or potential violation to the City Official or Employee and the penalties for failure to comply with this Chapter.

D. Any statements or notices filed pursuant to this section shall be open to public inspection only to the extent required by the Freedom of Information Law.

§ 48-4 Filing of claims.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former City Official or Employee of any claim, account, demand or suit against the City of Peekskill 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.

§ 48-5 Distribution of copies.

The City Manager shall cause a copy of this Code of Ethics to be distributed to every City Official and Employee within 30 days after the effective date of this Article. Each City Official or Employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Failure to distribute any such copy or failure of any City Official or Employee to receive such copy shall have no effect on the duty of compliance with such Chapter, nor the enforcement of provisions thereof.

§ 48-6. Disciplinary action; civil enforcement; penalties.

Where the Board of Ethics determines, after a hearing providing for due process and subject to provisions of law and collective bargaining agreements, if any, that a City Official or Employee has violated this Chapter, it shall make a recommendation to the Appointing Authority of such Official or Employee as to the appropriate disciplinary action to be taken. For the purposes of this section only, the Appointing Authority for a member of the Common Council shall be deemed the other members of the Common Council.

- A. Disciplinary action. The Appointing Authority shall consider, but need not follow, the recommended disciplinary action as advised by the Board of Ethics. The Appointing Authority shall, except as otherwise provided in an applicable collective bargaining agreement, warn or reprimand any City Official or Employee who violates, disobeys or disregards any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter. Additionally, the Appointing Authority may take proper action to suspend without pay or remove from office or employment any City Official or Employee who materially violates, disobeys or disregards any provision of this Chapter.
- B. Civil enforcement. Any City Official or Employee who violates, disobeys or disregards any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter, may be liable to the City for civil damages caused by such violation, except as otherwise provided in an applicable collective bargaining agreement. Such civil damages may be recovered in an action by the City at the request of the Common Council in any court of competent jurisdiction. The Common Council may also request initiation of an action in any court of competent jurisdiction to obtain injunctive relief to enjoin a violation of this Chapter or to compel compliance, all as provided in this Chapter.

Section 48-7. Judicial review.

48-9. Staff Assistance.

The City Manager or his/her designee shall provide support staff to assist the Board of Ethics in its functions and duties.

ARTICLE II Board of Ethics (§ 48-10- § 48-15)

§ 48-10 Establishment and composition.

A. There is hereby established a Board of Ethics to consist of five members, none of whom shall be Board Members (other than as members of the Board of Ethics) or paid City Officials or Employees.

B. Board of Ethics members shall reside in the City and shall not hold an office in any political party. The members of the Board of Ethics shall be appointed by the Common Council and shall serve for a term of five years, except that as to the members first appointed, one shall serve until December 31 in the year in which this Board was established, two shall serve until the second December 31 and two shall serve until the third December 31. Consecutive service shall not exceed two full terms.

C. When a vacancy occurs, it shall be filled by the Common Council within 60 days for the unexpired portion of the term. Members shall serve until his or her successor has been appointed.

D. Members of the Board of Ethics shall receive no salary or compensation for their services. The Board of Ethics shall designate one of its members as Chair of the Board of Ethics at its first meeting each calendar year. A majority vote of the Board of Ethics shall be required for the Board to take any action.

E. Members of the Board of Ethics shall be chosen for their independence, integrity, civic commitment, and high ethical standards. No more than a majority minus one shall be registered in the same political party.

F. Removal. A member of the Board of Ethics may be removed from office by the Common Council after written notice and an opportunity for reply. Grounds for removal shall be a failure to meet qualifications as stated in this section, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, missing three or more consecutive meetings without excuse by the Common Council, or a material violation of this Chapter.

§ 48-11. Jurisdiction; powers and duties of Board.

A. Jurisdiction. The Board of Ethics shall act only with respect to City Officials and Employees.

B. Powers and duties. The Board of Ethics shall have the following powers and duties:

(1) To make recommendations to the Common Council with respect to the drafting and adoption of amendments to the Code of Ethics.

(2) To request and receive, from any City Body or any City Official or Employee, such assistance and data as will enable the Board of Ethics to properly carry out its functions and powers.

(3) To prescribe rules and regulations governing its own internal organization and procedures.

(4) To distribute and make available to every City Official and Employee copies of all rules and regulations enacted by the Board of Ethics and all forms prescribed by the Board of Ethics.

- (9) To review annual disclosure statements to determine whether any City Official or Employee required to file such a statement has failed to do so, has filed a deficient statement or has filed a statement that reveals a possible or potential violation of this Chapter.
- (10) To review all transactional disclosure statements for accuracy and completeness.
- (11) To notify the Appointing Authority where review of a disclosure statement finds a deficiency or a potential violation of this Chapter.
- (12) To investigate all complaints and referrals concerning possible violations of this Chapter.
- (13) To issue subpoenas to compel the attendance of Persons in connection with the investigation of complaints and referrals concerning possible violations of this Chapter.
- (14) To retain its records in accordance with Article 57-A, Local Government Records Law, of the State Arts and Cultural Affairs Law.

§ 48-12. Waivers.

The Board of Ethics shall have no power to grant any waiver of any provisions of this Chapter.

§ 48-13. Investigations by Board of Ethics.

A. Upon receipt of a sworn or affirmed complaint by any Person alleging a violation of this Chapter or upon determining on its own initiative that such violation may exist, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out provisions of this Chapter.

B. The Board of Ethics, with the assistance of the office of the Corporation Counsel, shall lead all investigations necessary to enforce this chapter.

C. 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. All such statements and all complaints shall be indexed and maintained on file by the Board.

D. Any Person filing a complaint with the Board of Ethics shall be notified in writing of the final disposition of the complaint, to the extent permitted by law.

E. All documents and hearings relating to the investigation and hearing of any alleged violation of this Chapter shall be confidential and not available for public inspection except as required by the Freedom of Information Law. All final dispositions in which the Board of Ethics or the Appointing Authority finds a violation of this Chapter shall be available for public inspection and copying only to the extent required by the Freedom of Information Law.

§ 48-14. Training and education.

The Board of Ethics shall assist the City in conducting training programs on compliance with this Chapter and make informational and educational materials available to the public.

§ 48-15. Public inspection of records.

B. The Board of Ethics shall withhold disclosure statements from public disclosure to the extent authorized by and fully consistent with the Freedom of Information Law.

ARTICLE III Annual Disclosure Statement

ANNUAL DISCLOSURE FORM

**CITY OF PEEKSKILL ANNUAL DISCLOSURE STATEMENT
FOR CALENDAR YEAR 20____**

Last Name	First Name	Initial
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Home Address

Title	Department or Agency
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Work Address	Work Phone No.
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Please list your Immediate Family Members below. "Immediate Family Member" means your spouse, domestic partner, child, stepchild, full or half brother, full or half sister, parent, stepparent, and grandparent.

Name of Spouse or Domestic Partner

Name(s) of Child(ren) and Stepchild(ren)
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Names(s) of Brother(s) and Sister(s)

Names(s) of Parent(s) and/or Stepparent(s)
--

Name(s) of Grandparents

If the answer to any of the following questions is "none," please so state. Attach additional pages if necessary.

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
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<i>/E.g.: John Smith</i>	<i>Self</i>	<i>TechIM</i>	<i>Computers</i>	<i>Corp.</i>	<i>Pres./ Shareholder/</i>
<i>/E.g.: Rose Smith</i>	<i>Wife</i>	<i>Monument Realty</i>	<i>Real Estate</i>	<i>Partnership</i>	<i>Employee/</i>

2. **Investments.** List the name of any entity in which you have an investment of at least 5% of the stock or debt of the entity. Do not list any entity listed in response to Question 1 above. Identify the nature of the business and the type of business (e.g., corporation). **Provide the same information for your Immediate Family Members.**

Name of Family Member	Relationship to You	Name of Entity	Nature of Business	Type of Business
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<i>/E.g.: John Smith</i>	<i>Self</i>	<i>Verizon</i>	<i>Communications</i>	<i>Corp./</i>
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3. **Real Estate.** List the address of each piece of real estate in the City of Peekskill that you and/or your Immediate Family Members, as defined in Question 1, own in whole or in part, or otherwise have a financial interest.

Name of Family Member	Relationship to You	Address of Real Estate	Type of Interest
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<i>/E.g.: May Smith</i>	<i>Sister</i>	<i>2 White Street</i>	<i>Owner/</i>
<i>/E.g.: Robert Smith</i>	<i>Father</i>	<i>2 White Street</i>	<i>Hold mortgage/</i>

Gifts or Financial Benefits from the same or affiliated donors during the year must be added together for purposes of the \$75 rule. Gifts or Financial Benefits do not include authorized election campaign contributions.

<u>Recipient of Gift</u>	<u>Donor of Gift</u>	<u>Relationship to Donor</u>	<u>Nature of Gift</u>
<i>[E.g.: John Smith]</i>	<i>Acme Corp.</i>	<i>Former employer</i>	<i>Free trip to Las Vegas</i>

5. **Political Contributions.** List each person or firm that made to you or your campaign committee, within the previous election cycle, any favor or gift, in an amount exceeding \$1000, whether in the form of a service, promise or material thing or in any other form, from any Person who does business with the City; from any Person whose business is licensed or regulated by the City; or from any Person who in the regular course of whose business must receive approval or authorization from any City Official or Employee or City Body.

Name of Contributor

[E.g.: Alfred Jones]

6. **Immediate Family Members in City of Peekskill Service.** List each Immediate Family Member, as defined in Question 1, who is an officer or employee of the City of Peekskill, whether paid or unpaid, including the Immediate Family Member's name, relationship to you, title, and department.

<u>Name of Family Member</u>	<u>Relationship to You</u>	<u>Title</u>	<u>Department</u>
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[E.g.: Alex Smith Brother Code Enf. Officer Building]

Creditor

Debtor

Type of Obligation

[E.g.: John Smith

Alexis Doe

Personal loan]

I certify that all of the above information is true to the best of my knowledge and that, within the past two weeks, I have read the Ethics Code of the City of Peekskill.

Signed: _____

Date Signed: _____