

§ 22-1. Title.

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

§ 22-2 Purpose.

A. The purposes of this chapter are:

- (1) To establish standards of ethical conduct for officers, employees and consultants of the Town;
- (2) To provide officers and employees of the Town, whether elected or appointed, paid or volunteer, with clear guidance on such standards;
- (3) To promote public confidence and integrity in the agencies and administrative offices of our local government;
- (4) To provide for the fair and effective administration of this chapter.

B. This chapter is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.

§ 22-3 Standard of conduct.

A. General prohibition. A Town officer or employee shall not use his/her official position to provide, or take or fail to take, any action in a matter which he/she knows or has reason to know may provide a personal financial benefit or secure unwarranted privileges or exemptions for any of the following persons:

- (1) A Town officer or employee;
- (2) His/her outside employer, employee or business; a relative or immediate family member, a customer or client.

B. Recusal.

- (1) A Town officer or employee shall promptly recuse himself/herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may benefit the persons listed above, financially or otherwise, or give the reasonable appearance of a conflict of interest or impropriety.
- (2) Whenever a Town officer or employee is required to recuse himself/herself, he/she must refrain from further participation in the matter.

C. Gifts.

(1) No Town officer or employee shall directly or indirectly solicit any gift, nor accept or receive a gift (or multiple gifts from the same donor, or group of affiliated donors, in a single calendar year), having an aggregate value of \$75.00 or more when:

- (a) The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
- (b) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
- (c) The gift is intended as a reward for any official action on the part of the officer or employee.

(2) Presumptions.

- (a) In applying the general rule, a gift is presumed to be intended or expected to influence official action when it is from an individual or organization that seeks municipal action involving the participation or exercise of discretion by the officer or employee.
- (b) A gift is also presumed to be intended as an award for official action if it is from an individual or organization that obtained municipal action involving the participation or exercise of discretion by the officer or employee.

D. Representation. A Town officer or employee shall not represent any private interest before any Town agency or in any litigation in which the Town of Ulster is a party or complainant.

E. Appearances. A Town officer or employee shall not appear before any agency of the Town, except on his/her own behalf or on behalf of the Town.

F. Confidential information. Town officers and employees and former Town officers and employees shall not disclose any confidential information acquired by him/her in the course of his/her official duties or use such information to further anyone's private interests.

G. No Town officer or employee shall directly or indirectly:

- (1) Require a subordinate to make, or promise to make, any political contribution of

money, service, or other thing of value;

- (2) Make political activity, including a contribution of money or service, as a condition of appointing, hiring, promoting, discharging, or in any manner changing the rank, status, responsibilities, or compensation of any Town officer or employee, or an applicant for a Town officer or employee position.
 - (3) Engage in political solicitation in the workplace.
- H. Future employment. For a period of one year after termination of his/her term of office or employment with the Town, other than acting on behalf of himself/herself, no former Town official or employee may appear before the Town, including boards and commissions on which the former official or employee has represented the Town, in relation to any matter upon which he/she had discretionary power during his/her term of office or employment with the Town, unless requested to provide information by the Town Board.
- I. Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would put them in violation of this chapter.
- J. Inducement of others. A Town officer or employee shall not induce or aid another officer or employee of the Town to violate any of the provisions in this chapter.
- K. Investments. A Town officer or employee shall not invest or hold any investment directly or indirectly in any business, financial, commercial or other private transaction, which would create a conflict with his/her official duties.
- L. Nepotism.
- (1) Every public officer and every municipal employee related closer in degree, by blood or marriage, including significant other, 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) Any member of any municipal board, commission, or other municipal body related closer in degree by blood or marriage than first cousin or related by shared living circumstances to any person(s) seeking employment or making application before such body shall disclose such relationship as provided for in this section.
 - (3) The disclosure requirements of this section shall be made in writing, directed to the Town Clerk, and shall be made at the earliest opportunity next following the date upon which such officer, employee, or board member first learns or has knowledge of the making of the application by the person seeking employment and/or appointment.

- (4) No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative (spouse, significant other, life partner or sibling) for any position at, for or within the municipality or a municipal board.
- (5) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties. This prohibition shall not apply to positions designated as confidential or exempt from the civil service requirements.
- (6) Nothing in this section shall be construed to apply retroactively. The disclosure, participation, and supervisory prohibitions set forth herein shall not apply to any municipal officer or employee whose appointment or employment with the Town predates the effective date of adoption of the Ethics Law of the Town of Ulster, provided that this subsection shall not apply to any promotion, transfer, reappointment, or new supervisory relationship occurring on or after such effective date.

M. Use of public property. No officer or employee shall request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit except when such services are available to the public generally or are provided as municipal policy for the use of such officer or employee in the conduct of official duties.

N. Waiver. A Town officer or employee may apply for a waiver from any of these standards upon a showing of compelling need.

§ 22-4 Interest in contracts with Town.

A. Prohibited interests. No Town officer or employee shall have an interest in a contract with the Town, or an interest in a bank or trust company, that is prohibited by § 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by § 804 of the General Municipal Law.

B. Disclosable interests. Any Town 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 that interest in accordance with § 803 of the General Municipal Law. The Town Clerk shall immediately file such disclosure with the Ethics Board.

C. Violations. Any Town officer or employee who violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 805 of the General Municipal Law.

§ 22-5 Definitions.

Unless otherwise stated or unless the context otherwise requires, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

APPEAR and APPEAR BEFORE

Communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone.

CONFLICT OF INTEREST

A situation in which a public official's decisions are influenced by the official's personal interests, or in which a person has a private or personal interest sufficient to appear to influence the objective, or a situation that has the potential to undermine the impartiality of a person.

CONTRACTUAL GOODS/SERVICES

Any work performed or goods delivered by the Town officer to another person under mutual agreement of the two parties and provided the transaction has been finalized, without dispute, by the two parties. Retail sales shall be excluded from this provision.

CUSTOMER or CLIENT

Any person for whom a Town officer or employee has directly supplied contractual goods/services during the previous 24 months. Retail sales shall be excluded from this provision.

ETHICS BOARD

The Ethics Board of the Town of Ulster established pursuant to § 22-7 of this chapter.

GIFT and FINANCIAL BENEFIT

- A. For the purpose of this chapter, anything of value, including but not limited to money, service, thing, loan, travel, entertainment, hospitality, or promise. The value of a gift is generally the fair market value at retail; in the case of a ticket to an event, the value is the higher of the face value of the ticket or the cost to the provider.

- B. Exclusions. The following are not considered gifts under this chapter:
 - (1) Personal. Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift.

 - (2) Ceremonial. Gifts on special occasions such as marriages, retirement, and birthdays that are modest, customary, and reasonable; awards and plaques that are publicly presented in recognition of service as a municipal officer or employee, or for other service to the community.

 - (3) Promotional. Unsolicited advertising or promotional material of little intrinsic

value, such as pencils, pens, mugs, calendars, etc.

- (4) Official attendance at events. Complimentary attendance at bona fide charitable, political, and community events, when attendance at the event is related to the officer's or employee's official responsibilities.
- (5) General discounts. Free, promotional, or discounted items or service made available to the general public without regard to the person's status as an officer or employee.
- (6) Political contributions. Campaign contributions authorized by law.

IMPROPRIETY

The quality or condition of being improper, or behavior that is dishonest, or unsuitable for a particular situation.

MINISTERIAL ACT

An act, especially of a governmental employee, in carrying out the mandates of statutes, legal authority, established procedures or instructions from a superior, without exercising any individual discretion.

OUTSIDE EMPLOYER OR BUSINESS

A. Any:

- (1) Activity, other than service to the Town, from which the Town officer or employee receives compensation for services rendered or goods sold or produced;
- (2) Entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee and from which he/she receives compensation for services rendered or goods sold or produced; or
- (3) Entity in which the Town officer or employee has an ownership interest, except a corporation of which the Town officer or employee owns less than 5% of the outstanding stock.

B. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

PERSON

Both individuals and entities.

RECUSAL

To disqualify or remove oneself from participation in a decision on grounds of personal interest, or to disqualify or remove oneself from participating in a decision over a particular proceeding

because of one's conflict of interest, or prejudice.

RELATIVE/IMMEDIATE FAMILY MEMBER

A spouse, significant other, child, or a person claimed as a dependent on the Town officer's or employee's latest individual state income tax return.

SIGNIFICANT OTHER

An individual of the opposite or same sex living in shared quarters for the purpose of constituting a family unit.

SUBORDINATE

Of a Town officer or employee means another Town officer or employee over whose activities he/she has direction, supervision, or control, except those who serve in positions that are in the exempt classification under § 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of § 35 of that law.

TOWN

The Town of Ulster but shall not include the Town Justice Court.

TOWN OFFICER OR EMPLOYEE

Any officer or employee of the Town, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the Town. "Town officer or employee" shall not include:

- A. A judge, justice, officer, or employee of the court system;
- B. A volunteer firefighter or civil defense volunteer, except fire chief or assistant fire chief; or
- C. A member of an advisory board of the Town if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the Town or to restrict the authority of the Town to act. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this Subsection C.

§ 22-6 Applicant disclosure: land use applications.

- A. Disclosure. Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town shall state the information required, to the extent required, by § 809 of the General Municipal Law of the State of New York.

B. Violations. Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 809 of the General Municipal Law.

§ 22-7 Ethics Board.

A. Establishment.

- (1) The Ethics Board shall consist of five members appointed by the Town Board.
- (2) The term of office shall be three years, running on a calendar-year basis. One member shall serve until December 31 of the year in which the Board is established, two shall serve until the second December 31, and two shall serve until the third December 31.
- (3) There shall be support staff and funds appropriated annually by the Town Board toward the Ethics Board's maintenance and operation. Additional funds may be allocated as determined by the Town Board.
- (4) The Town Attorney or Attorney for the Town shall provide legal and advisory services to the Ethics Board as it may require in the performance of its duties.
- (5) Members shall serve without compensation and will be reimbursed for all reasonable and necessary expenses, provided they receive prior approval from the Town Board.
- (6) The Ethics Board shall elect a Chair at the start of each new year. The Chair or a majority of the Board may call a meeting of the Board. The Ethics Board shall meet no less frequently than on a quarterly basis and shall file an annual report on or before February 15 of the following calendar year.
- (7) A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.
- (8) Three members of the Ethics Board shall constitute a quorum and shall be required for the purpose of conducting a meeting. A concurring vote of three members shall be required for the Board to take action.
- (9) An Ethics Board member may be removed from office by a majority vote of the Town Board for failure to fulfill the duties of the office or for violation of this chapter. The Ethics Board member shall be given written notice and an opportunity for reply. "Failure to fulfill the duties of the office" shall include, but not be limited to, a persistent failure to attend meetings, refusal or neglect to participate in Board deliberations, failure to complete any required training(s), or failure to comply with the provisions of this chapter.

B. Qualifications.

- (1) All members of the Ethics Board shall reside in the Town of Ulster.
- (2) No more than two members of the Ethics Board may be enrolled in the same political party.
- (3) Ethics Board members may make contributions to any political campaign, but shall not otherwise participate in election campaigns for Ulster Town Board, Ulster Town Supervisor, Ulster Town Clerk, Ulster Highway Superintendent or Ulster Town Justice. This prohibition on participation shall include:
 - (a) Letters to publications, broadcasts over radio and television or use of social media that promote or denigrate candidates;
 - (b) Distribution of materials that promote or denigrate candidates;
 - (c) Allowing one's name to be used in political advertising that promotes or denigrates candidates;
- (4) The provisions of § 22-7B(3) shall not prevent members of the Ethics Board from participating to the extent allowed by law in any political campaign other than those listed in § 22-7B(3), so long as the fact of his or her membership on the Ethics Board is not included in their political speech. If the Ethics Board considers a matter involving any of the elected officials listed in § 22-7B(3), any member of the Ethics Board who contributed to the political campaign of such elected official shall disclose that fact to the other members of the Ethics Board, who will determine if recusal is required.
- (5) One member of the Ethics Board must be an elected or appointed municipal officer or employee as that term is defined in Section 800 of the New York State General Municipal Law. The restrictions on campaign participation set forth in subsection (3) shall not apply to any Ethics Board member who is an elected municipal officer, provided that such member shall comply with all other applicable provisions of this chapter and state law.

C. Powers and duties:

- (1) To administer and enforce all the provisions of this chapter.
- (2) To prescribe and promulgate rules and regulations governing its own organization and procedures.
- (3) To review, index and maintain on file complaints of violations of this chapter, such complaints to include original signature and address of the complainant, and

to investigate on its own initiative suspicions of violations of this chapter. Such file shall include actions and decisions of the Ethics Board with regard to such complaint(s) and investigations. Where the Ethics Board, upon investigation, if any, finds no violation the complaint(s) shall be kept confidential, unless otherwise required.

- (4) To review, index and maintain on file Ethics Board written advisory opinions and/or interpretations pertaining to provisions of this chapter made in response to written requests signed by an officer or employee of the Town.
- (6) Preliminary investigation.
 - (a) The Ethics Board may conduct a preliminary investigation based on a request from a Town officer or employee for an advisory opinion, or on a complaint alleging a violation of this chapter, to determine if possible violation of this chapter exists. Such a preliminary finding of a possible violation shall be confidential and not subject to public disclosure.
 - (b) If following such a preliminary investigation the Ethics Board determines that a violation possibly exists, the Board shall proceed to determine if there is reasonable cause to believe that a violation exists. Before making this reasonable-cause finding, the Ethics Board shall:
 - [1] Notify the officer or employee of the Town and the complainant, if any, in writing that the Ethics Board has determined that there is a possible violation of this chapter;
 - [2] Afford the officer or employee of the Town an opportunity to submit in writing a response setting forth such information as the individual deems relevant to the activities cited by the Board as a possible violation of this chapter;
 - [3] Notify the officer or employee of the Town and the complainant that, if the officer or employee of the Town so requests, the Ethics Board shall schedule a hearing pursuant to § 22-7D of this chapter:
 - (c) If the Board determines there is reasonable cause to believe that a violation of this chapter has occurred, and after any grace period granted by the Ethics Board in its discretion to cure such violation has expired, the Ethics Board shall send a notice of reasonable cause to the reported/applicable person, the complainant, if any; and the Town Supervisor and the Town Board.
- (7) To grant waivers, index and maintain on file applications, decisions, and other records and proceedings relating to waivers.

- (a) Upon written application and proof of compelling need by the applicant, the Ethics Board may grant a waiver on standards of conduct and disclosure requirements of this chapter, provided that no such waiver shall permit conduct otherwise prohibited by Article 18 of the General Municipal Law of the State of New York.
 - (b) Waivers shall be in writing and state the reasons for granting the waiver and make it part of the public record.
- (8) To prepare and submit an annual report to the Town Board summarizing the activities of the Ethics Board, listing any recommended changes to the text or administration of this chapter.
 - (9) To provide certain records for inspection:
 - (a) The Ethics Board shall make available for public inspection only those records required by Article 6 of the Public Officers Law of the State of New York, or by other state or federal regulation.
 - (b) Records of meetings and proceedings of the Ethics Board pertaining to violations of this chapter by an officer or employee of the Town shall not be disclosed to the public, except upon request by the officer or employee of the Town, or as required by the provisions of Article 7 of the Public Officers Law, or by other state or federal regulation.
 - (10) To make recommendations to the Town Board as to the appropriate sanction, discipline or other action to be taken or imposed with respect to any finding or determination of reasonable cause to believe that a violation of this chapter has occurred.
 - (11) To monitor employee and Town officer compliance with decisions and recommendations made by the Ethics Board.

D. Hearing and disciplinary action.

- (1) After notice pursuant to § 22-7C(6) of this chapter has been properly issued to an officer and/or employee of the Town, a hearing, subject to applicable provisions of law and collective bargaining agreements, shall be conducted to the maximum extent practicable in accordance with Appendix C, Article 3, of the New York State Administrative Procedure Act.
- (2) Where, after such hearing, the Ethics Board finds that an officer or employee of the Town has violated one or more provisions of this chapter, the Ethics Board may, if the seriousness of the violation so warrants, recommend to the Town Board appropriate disciplinary action, including but not limited to a warning,

reprimand, or other sanction authorized by law and/or applicable collective bargaining agreements. Notwithstanding the foregoing, the Ethics Board shall have no authority to remove from office any duly elected official of the Town, and nothing herein shall be construed to confer such authority. Where the Ethics Board determines that formal disciplinary action is not warranted, it shall advise the officer or employee in writing of the provision or provisions of this chapter that were violated, with the expectation that such violation shall not recur. In all cases, the Ethics Board shall maintain a written record of its findings and actions.

- (3) The Town Supervisor, within 30 days of receipt of the Ethics Board's recommendation, shall notify the Ethics Board in writing what action, if any, was taken by the Town Board, and the reasons thereof.
 - (4) The Ethics Board shall review, index and maintain on file for the public record the Town Supervisor's notification.
- E. Hearing procedure and representation. All hearings required to be conducted pursuant to this chapter shall be conducted to the maximum extent practicable in accordance with the provisions of Article 3 of the State of New York Administrative Procedure Act. Any person compelled to appear in person or who voluntarily appears before the Ethics Board shall be accorded the right to be accompanied, represented by, and/or advised by counsel.

§ 22-8 Judicial review.

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 22-9 Supersession of state law.

Wherever the requirements of this chapter are inconsistent with the provisions of § 808 of the General Municipal Law, the more restrictive provision, or those imposing higher standards shall govern.

§ 22-10 General provisions; severability.

- A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.
- B. Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself/herself or any member of his/her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.
- C. If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this law.

§ 22-11 Whistle-blower provisions.

All employees of the Town of Ulster shall be made aware of whistle-blower provisions of New York State's Labor Law § 740 and Civil Service Law § 75-b.

§ 22-12 Distribution and posting.

- A. The Town Board shall cause this chapter to be posted online and to be made available in printed form at the Town offices. Within 30 days of the adoption of any amendments to this chapter, the Town Supervisor shall notify all Town officers and employees of such amendment and information on where they may access a copy of the chapter as amended. The Town Board shall also cause a copy of this chapter to be provided to all Town officers and employees upon their election or appointment.
- B. All Town officers and employees shall be required to sign a statement that they have read and understood the Ethics Law of the Town of Ulster within 30 days of assuming their position; and
- C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.