A RESOLUTION ESTABLISHING STANDARDS OF CONDUCT FOR OFFICERS AND EMPLOYEES OF THE TOWN OF RENSSELAERVILLE

(1) BE IT RESOLVED, that pursuant to the provisions of section 806 of the General Municipal Law, the Town Board of the Town of Rensselaerville recognizes that there are rules of ethical conduct for public officers and employees 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. It is the purpose of this resolution to promulgate these rules of ethical conduct for the officers and employees of the Town of Rensselaerville. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Rensselaerville. The rules of ethical conduct of this resolution as adopted shall not conflict with, but shall be in addition to, and prohibition of article 18 of the General Municipal Law or any other general or special law related to ethical conduct and interest in contracts of municipal officers and employees.

(2) Definitions

(a) "Municipal Officer or Employee" means an officer or employee of the Town of Rensselaerville, 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 civil defense volunteer, except a chief engineer or assistant chief engineer.

(b) "Interest" means a pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this Resolution, a municipal officer or employee shall be deemed to have an interest in the contract of:

- his/her spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- a firm, partnership, or association of which such officer or employee is a member of employee.
- a corporation of which such officer or employee is an officer, director, or employee.
- a corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

(c) "Recusal" means that the official may not deliberate, vote, or participate in any way in that matter before the Town Board, the Planning Board, or the Zoning Board of Appeals. The official must disclose his/her conflict and remove himself/herself from the Board during such deliberations.

(3) Standards of Conduct

Every officer or employee of the Town of Rensselaerville shall be subject to and abide by the following standards of conduct:

(a) <u>Gifts.</u> S/he shall not directly or indirectly solicit any gift or accept or receive any gift having a value of twenty-five dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality,

thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her in the performance of his/her official duties or was intended as a reward for any official action on his/her part. For the purposes of this chapter, "gifts" shall exclude gifts from family members, attendance at local social events such as holiday festivities, benefits available to the general public, functions that officials routinely attend (such as chamber of commerce events), and events or activities that fulfill a public purpose.

(b) S/he shall disclose to his/her immediate supervisor all gifts given and accepted under the value of $25.00 and all gifts attempted to be given but not accepted over the value of $25.00, however innocent, from donors other than family members. S/he shall disclose any attempt at criminal corruption. Gifts received by supervisors or department heads should be disclosed to the Town Board.

(c) Confidential information. S/he shall not disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interest.

(d) Representation before one's own agency. S/he shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered to any matter before any Town agency of which he is an officer, member, or employee or of any municipal agency over which s/he has jurisdiction or to which s/he has the power to appoint any member, officer, or employee.

(e) Representation before any agency for a contingent fee. S/he shall not 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 whereby his/her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

(f) Disclosure of interest in legislation. To the extent that s/he knows, thereof, a member of the Town Board of the Town and any officer or employee of the Town Board, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town of Rensselaerville on any legislation before the Town of Rensselaerville shall publicly disclose on the official record the nature and extend of any direct or indirect financial or other private interest s/he has in such legislation.

(g) Investments in conflict with official duties. S/he shall not invest or hold any investment directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with his/her official duties.

(h) Private employment. S/he shall not 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/her official duties.

(i) Future employment. S/he shall not, after the termination of service or employment with the Town of Rensselaerville, appear before any board or agency of the Town of Rensselaerville in relation to any case, proceeding, or application in which s/he personally participated during the period of his/her service or employment or which was under his/her active consideration.

(j) Appearance of impropriety. An official should avoid circumstances that compromise his/her ability to make decisions solely in the public interest or create an appearance of impropriety.

(k) Town Property and Resources. No employee may use Town-owned property, assets, or any resources for personal purposes or profit or to benefit any person. Use of these resources is restricted to the conduct of official business, for the benefit of all residents and to further an authorized public purpose.

(l) Nepotism. Spouses and other family members of the Town official may not serve in appointed positions whose duties conflict or appear to conflict within the scope of duties of the official. They may not serve on a commission, board, or body of which the official is a member.

(m) Subordinates. No official shall solicit political contributions from subordinates or request that they attend political functions or engage in any political activity.

(n) Incompatible Positions – Judicial Standards. An official is prohibited from:

- -- holding more than one position with the Town when one is subordinated to the other.
- -- holding more than one position with the Town when the duties of the positions conflict.

(o) Inducement of others. A municipal officer or employee shall not induce or aid another officer or employee of the municipality to violate any of the provisions of this Code of Ethics.

(p) Recusal. A Town official shall promptly recuse himself/herself from acting on a matter before that official or board on which official sits when faced with the above conflicts.

(q) Board of Ethics. A Board of Ethics is hereby established pursuant to § 808 of Article 18 of the General Municipal Law to be composed of five (5) members, none of which may be officers or employees of the Town. The members of the Board of Ethics shall be appointed by the Town Board to serve for a maximum term of five years and shall receive no salary or compensation for their services as members of such Board. The first appointees to the Board shall serve for staggered terms of one to five years so that only one term expires each year.

The powers and duties of the Board of Ethics shall be those set forth on Schedule A annexed to and made a part of this Resolution. Members of the Board of Ethics shall be subject to this Code of Ethics.

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

(5) Distribution of Code of Ethics. The Town Clerk of the Town of Rensselaerville shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of Rensselaerville within 30 days after the effective date of this resolution. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment.

(6) Penalties. 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 of Ethics may be suspended or removed from office in the manner provided by law.

(7) Effective date. This resolution shall take effect immediately upon its adoption by resolution on the 14th day of August, 2008.

Schedule A
Town of Rensselaerville Code of Ethics

Powers and Duties of the Town of Rensselaerville Board of Ethics

A. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the municipal officers and employees of the Town of Rensselaerville, pursuant to a written request, with respect to Article 18 of the General Municipal Law.

B, The Board shall render advisory opinions to municipal officers and employees with respect to the Rensselaerville Code of Ethics pursuant to a written request by a municipal officer or employee. In no event shall the identity of the municipal officer or employee be disclosed.

C. An advisory opinion regarding this Code of Ethics shall be provided to the person requesting same. Opinions shall be forwarded by the Board of Ethics to the Town Supervisor and Town Councilpersons of the Town of Rensselaerville following the rendering of such opinion.

D. In addition to the other powers and duties granted to the Board of Ethics, the Board shall have the authority to receive from any person a written complaint questioning the compliance of any Town officer or employee with the provisions of the Code of Ethics. The Board of Ethics may prescribe a form for such complaint. The Board of Ethics may on its own motion conduct an inquiry of an officer or employee's alleged non-compliance with the provisions of the Code of Ethics upon receipt of substantial, reliable evidence, including, but not limited to, documents, written material, or other forms of proof. The Board of Ethics shall also have the power to initiate complaints as a result of information discovered during the course of its duties.

E. The Town Board of the Town of Rensselaerville hereby empowers the Town of Rensselaerville Board of Ethics with the authority to take testimony under oath recognizing that false statements given under oath will be forwarded to the Albany County District Attorney for possible criminal prosecution.

F. The Board of Ethics may promulgate its own rules as to its forms and procedures and shall maintain appropriate records of its opinions and proceedings in compliance with State laws. All such rules and regulations shall be in compliance with applicable State laws, shall guarantee due process and shall be reviewed and approved by the Town Attorney. The procedure for receipt and investigation of complaints shall be as follows:

Receipt and Investigation of Complaints

(1) The written complaint must be signed, must include the individual complainant's address, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).

(2) The written complaint shall be filed with the Board of Ethics. Upon receipt of said complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the officer or employee who is the subject of the complaint and the Town Attorney.

(3) The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine in writing whether there is probable cause for the complaint. In the event that the Board of Ethics should find no probable cause for the complaint, the complaint shall be dismissed by the Board of Ethics *sua sponte.* Such dismissal shall be decisive and binding with respect to the matter or matters set forth in the dismissed complaint. The Board of Ethics shall then notify the complainant, the officer or the employee who is subject of the complaint and the Town Board of the disposition of the complaint.

(4) In the event that the Board of Ethics should find probable cause for the complaint, the Board of Ethics shall forward to the Town Board a copy of its probable cause decision together with any information and documentation acquired by the Board of Ethics regarding the complaint.

(5) The Board of Ethics shall then conduct an investigation and hearing on said complaint within a reasonable time period not to exceed 90 days.

(6) Upon the request of a majority vote of the total voting membership of the Board of Ethics, the Board may require the attendance of necessary witnesses and the production of documents and other materials pertinent to the investigation.

(7) The officer or employee who is the subject of the complaint shall have the right to be represented by counsel at any required appearance before the Board of Ethics.

(8) A copy of the transcript of the testimony of the officer or employee, who is the subject of the complaint, shall be provided at no cost to the officer or employee.

(9) The Board of Ethics may require a written sworn response from the officer or employee who is the subject of the complaint in lieu of an appearance before the Board of Ethics.

(10) After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:

(a) the members of the Board of Ethics may obtain legal advice from the Town Attorney/Deputy Town Attorney or special counsel as the case may be, and
(b) the members of the Board of Ethics may discuss the complaint among themselves;
(c) if any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics; and
(d) failure to comply with this paragraph shall be deemed to be cause for removal of that member.

(11) At the conclusion of its investigation and hearing on said complaint, the Board of Ethics shall then furnish the complainant, the officer or the employee who is subject of the complaint, the Town Attorney, and the Town Board of the disposition of the complaint and its recommendation for action made to the Town Board.

G. All actions, decisions, and recommendations of the Board of Ethics shall be by majority vote of the entire membership.

H. The Town of Rensselaerville Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18 of the General Municipal Law of the State of New York.

I. To the extent allowed by law, the Town of Rensselaerville Board of Ethics shall be subject to the New York State Freedom of Information Law and to the Open Meetings Law.

J. Discussions held in Executive Session shall remain confidential and will not be disclosed.

K. The complaint, records, and other proceedings related thereto shall remain confidential until the Board of Ethics makes a recommendation for action to the Town Board or dismisses the complaint.

L. The members of the Board of Ethics shall have the right to obtain opinions from qualified people other than themselves provided that the majority of the members of the Board of Ethics agree with such a course of action and the names of the individuals involved in the complaint are withheld.

Adopted by the Town Board on September 11, 2008.