

§ 17-2. Statement of legislative intent.

Officers and employees of the Town of Greenport hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. This code of ethics establishes those standards, which shall serve as a guide for official conduct of the officers and employees of the Town of Greenport.

§ 17-3. Supersession of General Municipal Law section 808; Repeal of Existing Town Ethics Laws/Resolutions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by any other general or special law and/or case law relating to ethical conduct and interests in contracts of Town officers and employees. To the extent this Resolution is inconsistent with the provisions of section 808 of the General Municipal Law this Resolution shall supersede those provisions.

§ 17-4. Definitions.

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

- A. The term "Interest" shall mean a direct or indirect pecuniary or material benefit accruing to a Town officer or employee as the result of a contract with the Town which such officer or employee serves. For the purposes of this article a Town officer or employee shall be deemed to have an interest in the contract of (a) his spouse, minor children and dependents, except a contract of employment with the Town which such officer or employee serves, (b) a firm, partnership or association of which such officer or employee is a member or employee, (c) a corporation of which such officer or employee is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee. For the purposes of this Resolution, a Town officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock. The term "Interest" shall not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers.

- B. The term “relative” shall mean a spouse, parent, step-parent, sibling, step-sibling, sibling’s spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a Town officer or employee, and individuals having any of these relationships to the spouse of the Town officer or employee.
- C. The term “Town” shall mean any board, commission, district, council or other agency, department or unit of the government of the Town of Greenport.
- D. The term “Town officer or employee” shall mean an officer or employee of the Town, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a Town officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

§ 17-5. Conflict of interest.

No Town officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 17-6. Prohibition on use of municipal position for personal or private gain.

No Town officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

§ 17-7. Disclosure of interest in legislation and other matters.

- A. Whenever a matter requiring the exercise of discretion comes before a Town officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the Town officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the Town officer or employee, or when the Town officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the Town. In all other cases, the disclosure shall be filed with the person’s supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the Town officer, employee or board having the power to appoint to the person’s position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§ 17-8. Recusal and Abstention.

- A. A Town officer or employee shall promptly recuse himself or herself from participating in any decision or taking an official action on any matter before the Town that requires the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on any of the following persons: (i) the Town officer or employee; (ii) his/her outside employer or business; (iii) a relative; (iv) any private organization in which he/she is deemed to have an interest; or (v) a person from whom the officer or employee has received election campaign contributions of more than \$1000 in the aggregate during the past twelve months.
- B. In the event that this section prohibits a Town officer or employee from exercising or performing a power or duty:
 - (1) If the power or duty is vested in a Town officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
 - (2) If the power or duty that is vested in a Town officer as a member of a board, then the power or duty shall be exercised or performed by his deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
 - (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 17-9. Prohibition inapplicable; disclosure, recusal and abstention not required.

- A. This code's prohibition relating to conflicts of interest (section 17-5); use of a municipal position (section 17-6), disclosure requirements (section 17-7), and the requirements relating to recusal and abstention (section 17-8) shall not apply with respect to the following matters:
 - (1) Adoption of the Town's annual budget;
 - (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - i. all Town officers or employees;
 - ii. all residents or taxpayers of the Town or an area of the Town; or
 - iii. the general public;
 - (3) Any matter that does not require the exercise of discretion.

§ 17-10. Investments in conflict with official duties.

A. No Town officer or employee may acquire the following investments:

- (1) Investments that can be reasonably expected to require more than sporadic recusal and abstention under section 17-8 of this code; or
- (2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

B. This section does not prohibit a Town officer or employee from acquiring any other investments or the following assets:

- (1) real property located within the Town and used as his or her personal residence;
- (2) less than five (5%) percent of the stock of a publicly traded corporation; or
- (3) bonds or notes issued by the Town and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 17-11. Private employment in conflict with official duties.

A. No Town officer or employee, during his or her tenure as a Town officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- (1) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;
- (2) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a Town officer or employee;
- (3) violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- (4) requires representation of a person or organization other than the Town in connection with litigation, negotiations or any other matter to which the Town is a party.

§ 17-12. Future employment.

A. No Town officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board, while the matter is pending or within the thirty (30) days following final disposition of the matter.

- B. No Town officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.
- C. No Town officer or employee, at any time after serving as a Town officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a Town officer or employee.

§ 17-13. Personal representations and claims permitted.

This code shall not be construed as prohibiting a Town officer or employee from:

- A. representing himself or herself, or his or her spouse or minor children before the municipality; or
- B. asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 17-14. Use of Town resources.

- A. Town resources shall be used for lawful municipal purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property.
- B. No Town officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) any use of municipal resources authorized by law or municipal policy;
 - (2) the use of municipal resources for personal or private purposes when provided to a Town officer or employee as part of his or her compensation; or
 - (3) the occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No Town officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 17-15. Interests in Contracts.

- A. No Town officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.
- B. Every Town officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by section 803 of the General Municipal Law.

§ 17-16. Nepotism in hiring and contracting.

- A. No Town officer or employee, either individually or as a member of a board, may participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the Town or a Town board. If a hiring or employment matter arises relating to a relative, then the employee must advise his or her supervisor of the relationship, and must recuse him/herself from any and all discussions or decisions relating to the matter.
- B. No Town officer or employee may take part in any contracting decision, relating to a relative; or relating to any entity in which a relative is an officer, director or partner.
- C. No Town officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 17-17. Political Solicitations.

- A. No Town officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- B. No Town officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 17-18. Confidential Information.

No Town officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§ 17-19. Gifts.

- A. No Town officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.
- B. No Town officer or employee may directly or indirectly solicit any gift.
- C. No Town officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:
 - (1) 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;
 - (2) 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
 - (3) the gift is intended as a reward for any official action on the part of the officer or employee.
- D. For purposes of this section, a “gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- E. A gift to a Town officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
- F. A gift to a Town officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.
- G. This section does not prohibit any other gift, including:
 - (1) gifts made to the municipality;

- (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a Town officer or employee, is the primary motivating factor for the gift;
- (3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
- (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
- (5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a Town officer or employee, or other service to the community; or
- (6) meals and refreshments provided when a Town officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

§ 17-20. Penalties.

- A. Disciplinary action. Any Town officer or employee who engages in any action that violates any provision of this Code may be warned or reprimanded or suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanction. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this Code or in any other provision of law.
- B. Violation. A Town officer or employee who intentionally or knowingly violates any provision of this Code may be guilty of a Violation and be subject to a fine not to exceed \$1,000 for each such violation or a 15 day term of imprisonment or both.
- C. Civil forfeiture. A Town officer or employee who intentionally or knowingly violates any provision of this Code may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil fine pursuant to subdivision (B) or damages pursuant to subdivision (D) of this section.
- D. Damages. A Town officer or employee who violates any provision of this Code shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil forfeiture pursuant to subdivision (C) of this section.

§ 17-21. Board of Ethics.

- A. Pursuant to General Municipal Law § 808, there is hereby established a Board of Ethics consisting of at least [REDACTED] members to be appointed by the Town Board, all of whom reside in the Town of Greenport and who shall serve without compensation at the pleasure of the Town Board. A majority of such members shall be persons other than town officers or employees but shall include at least one member who is an elected or appointed Town officer or employee of the Town of Greenport.
- B. Advisory Opinions. Upon the written request of any Town officer or employee, the Board of Ethics shall render a written advisory opinion with respect to the interpretation or application of this Code or of Article 18 of the General Municipal Law. Such advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the board of ethics may prescribe. The board of ethics shall have the advice of legal counsel employed by the board, or if none, the Town's legal counsel. The opinions of the Board of Ethics shall be advisory and confidential and in no event shall the identity of the Town officer or employee be disclosed except to authorized persons and agencies. The board of ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto, upon the request of the Town Board.

§ 17-22. Board of Ethics jurisdiction, powers and duties.

- A. The Board of Ethics may only act with respect to officers and employees of the Town.
- B. The termination of a Town officer's or employee's term of office or employment with the Town shall not affect the jurisdiction of the Board of Ethics with respect to the requirements imposed on the officer or employee by this Code.
- C. The Board of Ethics shall have the following powers and duties:
 - (1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this Code;
 - (2) To review index, maintain on file, and dispose of written complaints and to make notifications and conduct investigations;
 - (3) To render, index, and maintain on file advisory opinions and/or other necessary records;
 - (4) To provide training and education to Town officers and employees;
 - (5) To prepare an annual report and recommend changes to this Code; and
 - (6) Where appropriate, refer matters to the Board of Ethics of the County of Columbia.

§ 17-23. Investigations.

- A. Upon receipt of a written complaint by any person alleging a violation of this Code, or upon determining on its own initiative that a violation of this Code may exist, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provisions of this Code.
- B. The Board of Ethics shall state in writing the disposition of every written complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. All such statements and all written complaints shall be indexed and maintained on file by the Board. The Town officer or employee who was under investigation shall be notified of the outcome of the investigation in writing within thirty (30) days of the Board's decision.
- C. Any person filing a written complaint with the Board of Ethics shall be notified in writing of the disposition of the written complaint.
- D. Nothing in this section shall be construed to permit the Board of Ethics to conduct an investigation of itself or of any of its members or staff. If the Board of Ethics receives a written complaint alleging that the Board or any of its members or staff has violated any provision of this Code, or any other law, the Board shall promptly transmit to the Town Board a copy of the written complaint. In such instance, the Town Board shall have all of the powers and duties of the Board of Ethics as set forth in this Code.

§ 17-24. Hearings, assessment of penalties, and disciplinary action.

- A. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Board of Ethics may recommend appropriate disciplinary action pursuant to Section 17-20 of this Code. The recommendation of the Board of Ethics shall be made to the Town Board. The Board of ethics shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Board of Ethics refers the matter to the Town Board. If such a referral is made, the Board of Ethics may adjourn the matter pending determination by the Town Board.
- B. Judicial Review. Any person aggrieved by a decision of the Board of Ethics may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 17-25. Training and Education.

Educating officials and the public on Article 18 of the General Municipal Law and the local ethics laws are among the most important functions of a Board of Ethics. Therefore, the Board of Ethics shall:

- A. Make information concerning this Code and Article 18 of the General Municipal Law available to the officers and employees of the Town, to the public, and to persons interested in doing business with the Town; and
- B. Develop educational materials and an educational program for the officers and employees of the Town on the provisions of this Code and on Article 18 of the General Municipal Law.

§ 17-26. Annual Reports; Review of Ethics Laws.

The Board of Ethics shall prepare and submit an annual report to the Town Board of the Town of Greenport, summarizing the activities of the Board of Ethics. The report may recommend changes to the text or administration of this Code.

§ 17-27. Public Inspection of Records; Public Access to Meetings.

- A. The only records of the Board of Ethics which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other State or Federal law or regulation.
- B. No meeting or proceeding of the Board of Ethics concerning misconduct, nonfeasance, or neglect in office by a Town officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by State or Federal law.

§ 17-28. Administration; Distribution of Code of Ethics.

- A. Upon the adoption of this Code, the Town Supervisor shall cause a copy thereof to be distributed to every officer or employee of this town within forty-five (45) days after the effective date of this chapter.
- B. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Every Town officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.
- C. Failure to distribute any such copy or failure of any Town officer or employee to receive such copy, or to acknowledge receipt thereof, shall have no effect on the duty of compliance with this code, nor the enforcement of provisions hereof.
- D. The Town Supervisor shall further cause a copy of this Code to be kept posted conspicuously in each public building under the jurisdiction of the Town. Failure to so post this Code shall have no effect on the duty of compliance herewith, nor the enforcement provisions hereof.

E. The Town Board may appropriate monies from the general town funds for the maintenance of and for personnel services to the Board of Ethics, but such Board of Ethics may not commit the expenditure of town monies except within the appropriations provided herein.

§ 17-29. Severability Clause.

If any clause, sentence, paragraph, section or part of this Code shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

APPROVED:

Town Board

STATE OF NEW YORK,]
COUNTY OF COLUMBIA] SS:

This is to certify that I, the undersigned Town Clerk of the Town of Greenport, County of Columbia, have compared the foregoing copy of resolution with the original and original minutes thereof, now remaining on file of records in my office, and that the same is a true and correct transcript therefrom and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Town and County, this _____ day of _____, 2012.

Town Clerk of the Town of Greenport
Columbia County, New York