

Chapter 15

ETHICS, CODE OF

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[HISTORY: Adopted by the Town Board of the Town of Poughkeepsie 5-16-2001 by L.L. No. 10-2001. This local law also repealed former Ch. 15, Ethics, Code of, adopted 9-18-1968 by L.L. No. 4-1968, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 10.
Officers and employees — See Ch. 28.

Personnel policies — See Ch. 33.

§ 15-1. Statement of purpose; legislative authority.

This Code of Ethics is enacted pursuant to Article 18 of the General Municipal Law. It is the purpose of this code to establish standards of ethical conduct for officers, employees, and certain appointed officials of the Town of Poughkeepsie, to afford them clear guidance as to these standards, and to ensure that Town government is so free from improper influence as to assure public confidence and trust. This code shall be in addition to all other legal restrictions, standards and provisions pertaining to the conduct of Town officers and employees.

§ 15-2. Definitions.

Unless the context clearly provides otherwise, the terms set forth below shall have the following meanings:

APPROPRIATE BODY — The Town of Poughkeepsie Board of Ethics, c/o Town of Poughkeepsie Town Clerk, or Town Attorney, One Overrocker Road, Poughkeepsie, New York 12603.

CHILD OR CHILDREN — Any unemancipated son, daughter, stepson, or stepdaughter.

INTEREST — A direct or indirect pecuniary or material benefit accruing to an officer or employee, or his or her relative, whether as a result of a contract with the Town or otherwise.

For the purpose of this chapter, a Town officer or employee shall be deemed to have an interest in the contract of:

- A. A relative, except as to a contract of employment with the town;
- 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;
- D. A corporation of which more than 5% of the outstanding stock is owned by any such officer, employee, or his or her relative.

LEGISLATION — A matter which appears on the agenda of the Town Board or on a committee thereof, on which any official action will be taken and shall include proposed or adopted acts, local laws, ordinances or resolutions.

OFFICER or EMPLOYEE — An elected or appointed officer or employee of the Town of Poughkeepsie, whether paid or unpaid. No person shall be deemed to be an officer or an employee of the Town solely by reason of being a volunteer fireman or EMT volunteer except a fire chief or an assistant fire chief.

RELATIVE — A child, stepchild, parent, stepparent, brother, sister, stepbrother, stepsister, or legal guardian of any of said persons of an officer or employee or of the spouse of the officer or employee.

SPOUSE — The husband or wife of an officer or employee, unless living separate and apart pursuant to:

- A. A judicial order, decree or judgment of separation; or
- B. A legally binding written agreement of separation in accordance with the Domestic Relations Law.

TOWN — The Town of Poughkeepsie.

UNEMANCIPATED CHILD — A child who is under the age of 18, unmarried and living in the household of an officer or employee.

§ 15-3. Standards of conduct.

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

- A. Gifts. No officer or employee shall directly or indirectly solicit or receive any money, whether in the form of cash, check, loan, credit, or any other form in any amount, or solicit any gifts, or accept or receive any individual annual gift, having a value of \$75 or more, whether in the form of services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could be reasonably inferred that the money or gift was intended to influence, or could be reasonably expected to influence, him or her in the performance of official duties or was intended as a reward for any official action.

- B. Confidential information. No officer or employee shall disclose confidential information acquired in the course of official duties or use such information to further a personal interest.
- C. Representation before one's own agency. No officer or employee shall receive or enter into any agreement, express or implied, for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of which he or she is an officer, member or employee or of any agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer, or employee.
- D. Representation before any agency for a contingent fee. No officer or employee shall receive or enter into any agreement, express or implied, for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of the town, whereby his or her compensation is to be dependent or contingent on any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based on the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent known, any officer or employee of the Town who participates in the discussion or gives an official opinion to the Town Board on any legislation before it shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she may have in such legislation.
- F. Disclosure of interests in contracts. To the extent known, any officer or employee of the Town who has, will have or subsequently acquires any interest in any contract with the Town shall publicly disclose the nature and extent of such interest in writing to the Board of Ethics and Town Board as well as to his or her immediate supervisor as soon as he or she has knowledge of such actual or prospective interest.
- G. Investments in conflict with official duties. No officer or employee shall invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict.
- H. Private employment. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her duties.
- I. Future employment. No officer or employee shall, within a period of one year after termination of service of employment, appear before any agency of the town, except on his or her own behalf. No officer or employee shall, after termination of service or employment, appear before any agency of the Town in relation to any matter, case, proceeding, application or transaction with respect to which such person was directly concerned or in which he or she personally participated during his or her service or employment.
- J. Prohibited conflicts of interest. No Town officer or employee shall have an interest in any contract between the Town and a corporation or partnership of which he or she is an officer or employee when such Town officer or employee has the power to negotiate, prepare, authorize, or approve the contract or authorize or approve payment thereunder;

audit bills or claims under the contract; or appoint an officer or employee who has any of the powers or duties set forth above; and no chief fiscal officer, treasurer, or his or her deputy or employee shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the Town of which he or she is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any Town officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

- K. Certain interests prohibited. No officer or employee of the Town who has an interest in any real property, either individually or as an officer or employee of a corporation or partnership, shall participate in the acquisition or plan for acquisition of said property or any property adjacent to said property by the town. The term "participation" shall include the promotion of the site as well as the negotiation of the terms of acquisition.
- L. No municipal officer or employee shall use or permit the use of property owned or leased to the Town for other than official purposes or for activities not otherwise officially approved by the Town Board.
- M. Except where required by law, no Justice of the Peace or member of a quasi-judicial administrative board, including but not limited to the Police Commission, Plumbing Board, Zoning Board of Appeals and Board of Ethics, shall be an officer or a committee member of a political party; provided, however, that this section shall not be applicable to a quasi-judicial administrative board as listed herein where the local law creating said Board requires membership of at least one sitting Town Board member. **[Amended 4-19-2006 by L.L. No. 9-2006]**

§ 15-4. Matters against town.

Nothing herein shall be deemed to bar or prevent the appearance of a present or former officer or employee before any agency on his or her own behalf, or on behalf of a relative, to express an opinion or comment on a matter before that agency; nor prevent the appearance or timely filing of any claim, account, demand or suit against the Town or any agency thereof where the matter arises out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 15-5. Distribution of Code of Ethics.

Within 30 days of the effective date of this chapter, the Town Attorney shall cause a copy of this Code of Ethics to be distributed to every officer and employee required to file a financial disclosure statement and shall further cause a copy of this chapter to be posted in all town-owned or leased buildings. Thereafter, each new officer and employee shall be furnished a copy of this chapter within 60 days of being elected, appointed, or hired by the town. Failure to distribute, post or receive a copy of this chapter shall have no effect on the duty of compliance or the enforcement of the provisions of this chapter.

§ 15-6. Distribution, filing and maintenance of financial disclosure statement.

A. All officers and employees holding the positions set forth below shall be responsible to complete and file a financial disclosure statement in substantially the form set forth herein and in accordance with the requirements of this chapter. On or before March 15 of each year, the Town Attorney shall cause to be distributed to those persons holding the positions set forth below said financial disclosure statement.

- (1) Supervisor's office:
 - (a) Supervisor.
 - (b) Deputy Supervisor.
 - (c) Supervisor's Secretary.
- (2) Members of the Town Board.
- (3) Town Clerk's office:
 - (a) Town Clerk.
 - (b) Deputy Town Clerks.
- (4) Highway Department:
 - (a) Superintendent.
 - (b) Deputies.
- (5) Receiver of Taxes:
 - (a) Receiver.
 - (b) Deputies.
- (6) Law Department:
 - (a) Town Attorney.
 - (b) Deputy Town Attorney.
- (7) Comptroller:
 - (a) Comptroller.
- (8) Assessing Department:
 - (a) Assessor.
- (9) Building Department: **[Amended 7-21-2004 by L.L. No. 10-2004]**
 - (a) Building Inspector.
 - (b) Deputy Building Inspectors.

- (c) Plumbing Inspector.
 - (d) Deputy Plumbing Inspector.
 - (10) Central garage:
 - (a) Managing operator.
 - (11) Courts:
 - (a) Town Justices.
 - (b) Clerk of the Court.
 - (c) Clerks to the Justices.
 - (12) Engineering:
 - (a) Town Engineer.
 - (b) Associate Town Engineer.
 - (c) Assistant Town Engineer. **[Added 4-19-2006 by L.L. No. 8-2006]**
 - (13) Historian:
 - (a) Town Historian.
 - (14) Planning Department:
 - (a) Town Planner.
 - (15) Police Department:
 - (a) Chief.
 - (b) Captains.
 - (16) Recreation Department:
 - (a) Recreation Director.
 - (17) Sewer and Water Department:
 - (a) Managing operator(s).
 - (18) Zoning Department:
 - (a) Zoning Administrator.
 - (b) Deputy Zoning Administrator.
- B. Each of the members of the following boards and commissions shall be responsible to complete and file a financial disclosure statement within 30 days of their initial appointment and annually thereafter. The financial disclosure statement shall be substantially the form set forth herein and in accordance with the requirements of this

chapter. On or before March 15 of each year, the Town Attorney shall distribute such disclosure statement forms to the members of the specified boards or commissions, which shall be filed by May 15 of each year:

- (1) Board of Assessment Review.
- (2) Conservation Advisory Commission.
- (3) Board of Ethics.
- (4) Historic Preservation Commission.
- (5) Planning Board.
- (6) Examining Board of Plumbers.
- (7) Records Management Advisory Board.
- (8) Tri Municipal Sewer Commission.
- (9) Voting machine custodians.
- (10) Joint City/Town Water Board.
- (11) Zoning Board of Appeals.

C. Financial disclosure statements filed pursuant to this Code of Ethics shall be sealed, indexed, and maintained on file for five years in an appropriate manner by the Board of Ethics. Such disclosure statements shall be available for public inspection in accordance with the New York State Freedom of Information Law. Such disclosure statements shall be destroyed upon the expiration of this five-year period.

§ 15-7. Financial disclosure statement. [Amended 8-21-2002 by L.L. No. 12-2002]

Annual Statement of Financial Disclosure for Calendar Year _____

The Code of Ethics of the Town of Poughkeepsie requires certain elected or appointed officials and employees to file this statement prior to May 15 for the preceding calendar year. Please answer all questions completely. Indicate not applicable (N/A) where appropriate. Attach additional pages if necessary.

The filing of this statement is in addition to the obligation for continuous disclosure required by the Code of Ethics, § 15-3, Standards of conduct.

Are you requesting a time-stamped receipt of the filing of this document?

- Yes
- No

1) Reporting Individual

Name: _____

Title of Town Position Held: _____

Department, Agency, or Committee _____

Office Address (Employees Only) _____

Office Telephone Number and Extension (Employees only) _____

- 2) To the best of your knowledge and belief, do you, your spouse, your children, dependent(s) or any relatives, as defined in § 15-2 of the Code of Ethics, have any of the following relationships with the Town of Poughkeepsie?
- | Yes | No | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Do business with the Town of Poughkeepsie. |
| <input type="checkbox"/> | <input type="checkbox"/> | Receive any benefits, payments or gifts in excess of that allowed, as defined in § 15-3A of the Code of Ethics, from any person, firm, company or organization either doing business with the Town of Poughkeepsie or licensed or regulated by the Town of Poughkeepsie. |
| <input type="checkbox"/> | <input type="checkbox"/> | Own 5% per cent or more of stock in a firm doing business with the Town of Poughkeepsie. |

Complete questions 3-6, only if you checked any yes box in Question 2.

(Use separate paper if necessary)

- 3) Identify the following for all boxes checked in Question 2.
- The name of the individual
 - The relationship with the Town of Poughkeepsie
 - The value of relationship as best can be determined
 - The dates the relationship began and ended (or will end)
- 4) For every individual identified in Question 3, including yourself, identify any gifts, payments or personal entertainment having an annual cumulative value in excess of \$75.00 directly from:
- Any person or entity doing business with the Town of Poughkeepsie
 - Any person or entity regulated or licensed by the Town of Poughkeepsie.
- 5) For every individual identified in Question 3, including yourself, identify any agreement or promise of future employment or payment, including transfers of anything of a cumulative value, in excess of \$75.00 from:
- The Town of Poughkeepsie
 - Any person or entity doing business with the Town of Poughkeepsie
 - Any person or entity regulated or licensed by the Town of Poughkeepsie.
- 6) For every individual identified in Question 3, including yourself, identify any real property* which each owns either in or contiguous to the Town of Poughkeepsie. The identification should include at a minimum the street address, municipality, property size, property use and acquisition date. Include all property, whether the interest is vested or contingent, where 50% or more of the equitable interest is held by the reporting person or relatives.

* Exclude any primary residence not exceeding five acres.

With respect to items reported concerning "relatives," as defined, a demonstration of good faith effort to the Ethics Board shall be evidence of compliance.

The reporting of information on this statement is required by law. Improper use of the information contained in this statement by any person or entity in violation of privacy or other rights is separately punishable in accordance with law. No inference of unethical or illegal conduct or behavior shall be drawn merely from the lawful compliance with disclosure requirements.

Individual Certification

State of New York) ss:
)
County of Dutchess)

I hereby affirm under penalty of perjury that the information on this statement set forth is true, accurate and complete to the best of my knowledge.

Dated: _____

Signature: _____

Corporate Certification

State of New York) ss:
)
County of Dutchess)

I, _____, being duly sworn, deposes and says that I am
_____ of _____.

President/Secretary Name of Corporation

and that the information on this statement set forth is true, accurate and complete to the best of my knowledge.

Poughkeepsie, New York

Dated: _____

Signature: _____

File the statement with:

Board of Ethics
c/o The Town of Poughkeepsie Supervisor
One Overocker Road
Poughkeepsie, New York 12603

§ 15-8. Annual statement of financial disclosure; filing; variances and extensions.

- A. Any person required to file an annual statement of financial disclosure pursuant to this chapter shall file such completed statement on or before May 15 of each year for the preceding calendar year directly with the appropriate body.
- B. Any person required to file such statement who is employed after May 15 of any year shall file such statement within 30 days of such employment.

- C. A person who is subject to filing requirements from more than one Town may satisfy the requirement of this section by filing a financial disclosure form with the appropriate body of the other Town and filing a copy of that form with this Town within the time required, together with a notification to this Town of the name of the other Town and the name and address of the appropriate body for that town.
- D. Any person who is subject to the reporting requirements of this chapter and who timely files with the Internal Revenue Service an application for an extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to submit such financial disclosure statement on or before the 15th day after the expiration of the period of such extension of time within which to file such individual income tax form.
- E. Any person who is required to file an annual financial disclosure statement and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship in accordance with the rules and regulations on the subject adopted by the appropriate body shall file such statement within the additional period of time granted.
- F. Upon filing of such annual disclosure statement, each officer and employee may obtain a dated receipt of such filing by checking the box on the first page of the disclosure form provided for that purpose.
- G. Any person who is required to file an annual financial disclosure statement and who fails to file on or before May 15 of any year shall be notified by certified mail by the appropriate body and shall file such statement within 15 days of such notification subject to the penalty provided for in § 15-9A below.
- H. Any person required to file a financial disclosure statement may request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or relatives, which item or items which would otherwise be required to be reported will have no material bearing on the discharge of the reporting individual's official duties.

§ 15-9. Penalties for offenses.

- A. Any officer or employee who is required to complete and file an annual financial disclosure statement and has failed to file within 15 additional days after having been given at least one reminder, in writing, may be assessed a civil penalty not to exceed \$100 for the first such failure and not to exceed \$150 for a second such failure and not to exceed \$250 for any failure to file thereafter. In assessing any penalty, the Board of Ethics shall consider any mitigating circumstances offered by the offending party. In addition to these penalties, a persistent violator shall be subject to a fine not to exceed \$500. A persistent violator is one who fails to file the annual statement of financial disclosure for three years.
- B. Any officer or employee who knowingly and willfully, with intent to deceive, makes a false statement, or gives information on such statement, which such individual knows to be false, shall be assessed a civil penalty in an amount not to exceed \$2,500.

- C. Any officer or employee who knowingly and willfully violates any other provisions of the Town Ethics Law, or of Article 18 of the General Municipal Law, or any other law establishing rules of conduct for public officers and employees, may be assessed a civil penalty not to exceed \$2,500 and may be subject to disciplinary action by the appropriate body.

§ 15-10. Board of Ethics.

A. Composition.

- (1) The Town of Poughkeepsie Board of Ethics, heretofore created by Local Law No. 4 of 1968, is terminated effective upon adoption of this chapter.
- (2) Pursuant to Article 18 of the New York General Municipal Law, there is hereby established the Town of Poughkeepsie Board of Ethics.
- (3) There is hereby created, pursuant to the provisions of § 808 of the General Municipal Law of the State of New York, a Board of Ethics, consisting of eight members, seven of whom shall be appointed by the Town Board, and one of whom shall be the Town Attorney. All members shall reside in the town, except that the Town Attorney need not, and a least one member shall be a municipal officer or employee. All members shall serve without compensation. Of the initial appointed members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, two for terms of four years and two for terms of five years. No member shall be an officer or committee member of a political party. The Town Attorney shall exercise an advisory function only and shall have no vote.
- (4) Four members of the Board shall constitute a quorum.
- (5) The Town Board may appropriate monies for the maintenance and personal services connected with the Board of Ethics.
- (6) The members of the Board of Ethics shall receive no compensation for their services on such Board.

B. Powers; duties; functions.

- (1) The Board of Ethics shall have the powers, duties and functions provided by Article 18 of the General Municipal Law.
- (2) The Board of Ethics shall be the repository for completed financial disclosure statements and such other written instruments, affidavits, and disclosures as required by law. The Board shall inspect all financial disclosure statements to ascertain whether a person required to file a statement has failed to do so.
- (3) The Board of Ethics shall render advisory opinions in writing to officers and employees of the Town of Poughkeepsie, upon written request of the officer or employee with regard to his or her own affairs. Such advisory opinions shall be with respect to Article 18 of the General Municipal Law and any Code of Ethics

adopted pursuant thereto. The Town Board of Ethics may, at its option, refer matters to the County Board of Ethics.

- (4) The Supervisor, members of the Town Board, Comptroller, Police Chief and Town Clerk may request an advisory opinion with regard to the affairs of any Town officer or employee. Such opinions shall be rendered, if practicable, within 30 days of the written request. The thirty-day time period may be extended an additional 30 days at the Board's discretion. Thereafter, if deemed necessary by the Board, the time period may be extended by an additional 90 days upon notification to the Town Board that a particular matter is under investigation and an additional extension is required. In any event, the Board shall render its opinion no later than 150 days from the date of receipt of the written request.
- (5) Unless specifically requested by the individual charged with a violation, or the party requesting an advisory opinion, said opinions shall not be made public or disclosed unless required by the Freedom of Information Law, pursuant to judicial subpoena or required in a disciplinary proceeding involving an officer or employee.
- (6) 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 of the Town of Poughkeepsie.

C. Complaints, hearings and assessment of penalties.

- (1) All complaints alleging a violation of the Town of Poughkeepsie Code of Ethics must be in writing and include the signed name and address of the complainant.
- (2) Upon receipt of a complaint, the Board of Ethics shall make a determination as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made that a violation of the Code of Ethics is not alleged by the complainant, the Board shall notify the complainant of its determination in writing.
- (3) If a determination is made that a violation of the Code of Ethics is alleged by the complainant, the Board shall notify in writing the person against whom the complaint is made of the nature of the complaint and the provision of the code allegedly violated.
- (4) The officer or employee charged with a violation shall have 15 days from receipt of notice of alleged violation to respond in writing to the Board's notice of alleged violation. The fifteen-day time period may be extended an additional 15 days at the Board's discretion. The response shall either admit the violation or state facts supporting a denial of the charge.
- (5) If the charge is denied, the Board shall either dismiss the charge, if the facts presented so warrant, or conduct a hearing.
- (6) A fact hearing shall consist of sworn testimony, affidavit, or such document evidence as the Board allows. The person charged shall be allowed to be represented by legal counsel and allowed to present evidence and to confront evidence presented against him or her. Strict rules of evidence under the laws of

New York State shall not apply to the hearing. The Board may direct that a hearing be recorded and transcribed.

- (7) After the hearing is conducted, the Board shall issue its decision in writing, indicating the reason therefor. Such decision shall be rendered, if practicable, within the time limits set forth for opinions as contained in § 15-10B(4) above. No determination may be based solely on hearsay evidence.
- (8) Upon the Board's determination that a violation of the Code of Ethics has occurred, and pursuant to § 15-9 of this Code of Ethics, the Board of Ethics may assess a penalty.
 - (a) Any determination resulting in a fine or disciplinary action by the Board of Ethics shall be subject to review by a special proceeding in New York State Supreme Court. Such a proceeding must be commenced within 30 days of receipt of notice of a determination. The Supreme Court, in its review, may make its own findings of fact based upon the record before it.
 - (b) In instances where the Board of Ethics levies a fine in excess of \$1,000, the aggrieved party may seek review by the Town Board, solely on the issue of excessive fine. The request for Town Board review shall be in writing and filed with the Town Clerk and the Board of Ethics within 10 days of receipt of notice of said determination. Upon receipt of such request, the Town Clerk shall refer the matter to the Personnel Committee of the Town of Poughkeepsie for its review and recommendation. In conducting its review, the Personnel Committee shall be restricted to only materials or testimony presented to the Board of Ethics. The Personnel Committee shall recommend an affirmance or reduction of the fine. The Personnel Committee's recommendation shall be in the form of a resolution submitted for action by full Town Board. The Town Board shall have 90 days from the date the Town Clerk receives the notice within which to act on the request. The failure by the Town Board to take action within the 90 days shall be deemed an affirmance of the determination of the Board of Ethics.
 - (c) The time within which to commence a special proceeding in Supreme Court shall be tolled pending action by the Town Board upon adoption of the resolution as provided by Town Law.

§ 15-11. Legislative authority; impact on state law.

The provisions of this chapter are enacted pursuant to the authority granted by Article 18 of the General Municipal Law. Notwithstanding anything to the contrary, the Town of Poughkeepsie hereby elects to remove itself from the ambit of all of the provisions of § 812 of the General Municipal Law.

