Local Law No. 2 of the year 2007

ETHICS AND DISCLOSURE LAW

of the Town of Hurley, Ulster County, New York

BE IT ENACTED by the Town Board of the Town of Hurley as follows:

SECTION I. TITLE.

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

This Local Law shall be known as the "Ethics and Disclosure Law of the Town of Hurley."

This Local law supercedes section 17 the prior Ethics Code adopted by the Town Board of the Town of Hurley on September 28, 1970. Amended on May 21, 2007

§ II. PURPOSE.

The purposes of this Local Law are:

A. To establish standards of ethical conduct for officers, employees and consultants of the Town;

B. To provide officers and employees of the Town, whether elected or appointed, paid or volunteer, with clear guidance on such standards;

C. To promote public confidence and integrity in the agencies, administrative offices of our local government;

D. To facilitate the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people by requiring public disclosure of financial interests that may influence or be perceived to influence the actions of Town officers and employees;

E. To provide for the fair and effective administration of this Local Law.

§ III. STANDARD OF CONDUCT.

A. General prohibition. A Town officer or employee shall not use his/her official position or office, 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;
3. a relative or immediate family member;
4. 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. A Town officer or employee shall not accept or solicit any gift or gifts valued over Fifty Dollars ($50) during any calendar year, nor shall he/she accept or solicit under circumstances in which it could reasonably be inferred that the gift(s) was intended to influence such Town officer or employee in the performance of his/her official duties or was intended to be an award for any official action on his/her part.

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 Hurley is a party or complainant.

E. Appearances. A Town officer or employee shall not appear for hire 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. Political solicitation. A Town officer or employee shall not request or authorize anyone else to request any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

H. Future employment. For a period of two (2) years 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 Local Law.

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 Local Law.

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.

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 Request Form from any of these standards upon a showing of compelling need. A Waiver Request Form will be available from the Town Clerk or the Ethics Board, and may be modified from time to time as deemed necessary.

§ IV. INTEREST IN CONTRACTS WITH THE 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 section 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 section 804 of the General Municipal Law.

B. Discloseable 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 section 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 section 805 of the General Municipal Law.

§ V. DEFINITIONS.

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

"Appear" and **"appear before"** mean communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone.

"Contractual goods/services" means 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" means any person for whom a Town officer or employee has directly supplied contractual goods/services during the previous twenty-four (24) months. Retail sales shall be excluded from this provision.

"Ethics Board" means the Ethics Board of the Town of Hurley established pursuant to Section VIII of this Local Law.

"Gift" and **"financial benefit"** shall include any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

"Ministerial act" means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

"Outside employer or business" means:

1. any 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. any 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. any 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 five percent (5%) of the outstanding stock. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

"Person" means both individuals and entities.

"Relative/immediate family member" means 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" means 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 section 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of section 35 of that law.

"Town" means the Town of Hurley but shall not include the Town justice court.

"Town officer or employee" means 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:

1. a judge, justice, officer, or employee of the court system;

§ VI. 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 section 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 section 809 of the General Municipal Law.

§ VII. ANNUAL DISCLOSURE.

A. Officers and employees required to file. Officers and employees holding the following positions shall be required to file a signed Annual Disclosure Statement:

1. Ethics Board members
2. Supervisor and Town Board members
3. Planning Board members
4. Zoning Board of Appeals members
5. Board of Assessment Review members
6. Town Clerk and his/her deputies
7. Highway superintendent and his/her deputies
8. Assessor and his/her deputies
9. Building Inspector and Code Enforcement Officer
10. Counsel(s) to Town, Planning Board and Zoning Board of Appeals and Special Counsel(s)
11. Tax Collector
12. Chief of Police
13. Youth Center Recreation Director
14. Water/Sewer Superintendent
15. Other positions that may be determined by the Town Board to have discretionary powers.

B. Time and place for filing. Annual Disclosure Statements shall be filed with the Town Clerk:

1. within sixty (60) days after the effective date of this Local Law;
2. within thirty (30) days of taking office of those positions listed above; and
3. no later than January 31of each year thereafter.

C. Changes in disclosed information.

Within thirty (30) days after a change in the information contained in his/her most recently filed Annual Disclosure Statement, a Town officer or employee shall file a signed amendment to the statement indicating the change.

D. Contents of Annual Disclosure Statements and Waiver Request Forms.

The Annual Disclosure Statement shall contain the information and be in the form set forth in Appendix A. These requirements may be amended from time to time by the Town Board. The Waiver Request Forms shall contain the information and be in the form set forth in Appendix B.

E. Maintenance of Annual Disclosure Statements and Waiver Request Forms.

The Town Clerk shall transmit to the Ethics Board all Annual Disclosure Statements and Waiver Request Forms required by this Local Law within five (5) business days of receiving such statement(s). All Annual Disclosure Statements and Waiver Request Forms shall be submitted in sealed envelopes.

F. Good faith efforts.

Failure to disclose the information required by subsection D of this section with respect to a Town officer's or employee's spouse or significant other or other relative shall not constitute a violation of the subsection if the officer or employee has made a good faith effort to obtain the information and if he/she sets forth those efforts in his/her Annual Disclosure Statement.

§ VIII. ETHICS BOARD.

A. Establishment.

1. The Ethics Board shall consist of five (5) members and three (3) alternates to be appointed by the Town Board.

2. The term of office shall be three (3) years, running on a calendar year basis. One (1) member shall serve until December 31 of the year in which the Board is established, two (2) shall serve until the second December 31, and two (2) 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. If the Town Attorney or Attorney for the Town has a potential conflict of interest the Town shall make funds available for outside counsel.

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 from among its members ANNUALLY. The

Chair or a majority of the Board may call a meeting of the Board. The Ethics Board shall meet a minimum of two (2) times a year.

7. A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.

8. Four (4) members of the Board are required for the purpose of conducting a meeting. A concurring vote of three (3) 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 Local Law. The Ethics Board member shall be given written notice and an opportunity for reply.

B. Qualifications

1. All members of the Ethics Board shall reside in the Town of Hurley.

2. No political party shall maintain a majority of seats on the Ethics Board. No member shall hold elective office in the Town of Hurley.

3. Consecutive service on the Ethics Board shall not exceed two (2) three (3) year terms.

C. Powers and duties.

1. To administer and enforce all the provisions of this Local Law.

2. To prescribe and promulgate rules and regulations governing its own organization and procedures.

3. To review, index and maintain all Annual Disclosure Statements filed with the Ethics Board. If a person required to file an Annual Disclosure Statement with the Ethics Board has failed to file a Annual Disclosure Statement or has filed a deficient Statement, the Ethics Board shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen (15) day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. These penalties are defined in Section VIII.D of this Local Law, "Hearing and disciplinary action." All of the foregoing proceedings shall be confidential except if the Ethics Board determines that there is a violation or that any potential conflict of interest has not been rectified.

4. To review, index, maintain on file, and hear all signed complaints which the board determines to have merit alleging violation(s) of this Local Law upon the written request of any individual. Any such complaint shall be signed by the individual complainant, and must include his/her address.

5. To render, index, and maintain on file advisory opinions on the requirements of this Local Law. Upon the written request of any Town officer or employee, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this Local Law or Article 18 of General Municipal Law of the State of New York.

6. If the Ethics Board preliminarily finds on its own review of an Annual Disclosure Statement, or pursuant to its review of a request for an advisory opinion, or pursuant to receipt of a complaint alleging a violation of this Local Law, or upon the written request of any individual member, or pursuant to an investigation initiated by the Ethics Board in carrying out the provisions of this Local Law, that a possible violation of this Local Law exists, the Ethics Board may, but shall not be required to, provide the person(s) affected with a reasonable opportunity to cure such violation. Such a preliminary finding shall be confidential and not subject to public disclosure. If under any other circumstances, such as through the filing and investigation of a complaint, the Ethics Board determines that there is reasonable cause to believe that a violation of this Local Law has occurred, or after any grace period granted by the Ethics Board has expired and such violation remains uncured, the Ethics Board shall send a notice of reasonable cause to: (a) the reported/applicable person; (b) the complainant, if any; and (c) the Town Supervisor and the Town Board.

Before any such "reasonable cause" finding shall be made the Ethics Board shall: (a) notify in writing the reporting/affected person as to the possible or alleged violation of this Local Law; (b) afford the reporting/affected person an opportunity to submit in writing a response setting forth such information as said reporting/affected person deems relevant to the activities cited by the Board as a possible or alleged violation of this Local Law; and (c) upon written request, afford the affected person a hearing wherein said affected person may provide either a written or oral response setting forth such information as the affected person deems necessary or appropriate in response to the actions by the Ethics 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 Local Law, 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 Local Law.

9. To provide for public inspection of certain records.

(a) The only records of the Ethics Board 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 Ethics Board concerning misconduct, non-feasance, 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 some other State or Federal law or 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 Local Law has occurred.

11. To monitor employee and Town officer compliance with decisions and recommendations made by the Ethics Board.

12. The Ethics Board shall not carry out the powers and duties as defined in this section if it is determined that three (3) members of such board have a conflict of interest. In this event, the duties of the Ethics Board shall be administered by the Ethics Board of Ulster County.

D. Hearing and disciplinary action. 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 Ethics Board may recommend disciplinary actions to any Town officer or employee who engages in any action that violates any provisions of this Local Law. This action may be a warning, reprimand or suspension or removal from office or employment or subject the Town officer or employee to any other sanction authorized by law or collective bargaining agreement. The recommendation of the Ethics Board shall be made to the Town Board, which is authorized to impose such sanctions. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Ethics Board refers the matter to the Town Board.

E. Hearing procedure and representation. All hearings required to be conducted pursuant to this Local Law 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 (Chapter 82 of the

Consolidated Laws of the State of New York). 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.

§ IX. 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.

§ X. SUPERSESSION OF GENERAL MUNICIPAL LAW SECTION 808.

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

§ XI. MISCELLANEOUS PROVISIONS.

A. No existing right or remedy shall be lost, impaired, or affected by reason of this Local Law.

B. Nothing in this Local Law 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 Local Law 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.

§ XII. DISTRIBUTION AND POSTING.

A. Within ninety (90) days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Town Board of the Town of Hurley, in a form suitable for posting, copies of those provisions of this Local Law which the Ethics Board deems necessary for posting in the Town. Within ten (10) days after receipt of those copies, the Town Board shall cause the copies to be posted conspicuously where public notices are generally posted.

B. Within ninety (90) days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Town Board of the Town of Hurley, in a form suitable for distribution, copies of those provisions of this Local Law which the Ethics Board deems necessary for distribution to the officers and employees of the Town. Within

ten (10) days after receipt of those copies, the Town Board shall cause the copies to be distributed to every officer and employee of the Town, and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within ten (10) days after entering upon the duties of his/her position.

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 Local Law shall have no effect on the duty of compliance with this Local Law nor on the enforcement of its provisions.

§ XIV EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in compliance with all applicable provisions of law.