

Local Law No. 7 of the year 2007
ETHICS AND DISCLOSURE LAW
of the Town of Saugerties, Ulster County, New York

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

Section 1. TITLE

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

Section 2. 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, trust and integrity in the agencies, administrative offices of our local government;
- d. To facilitate the consideration of potential ethical problems before they arise, 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.

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.

Section 3. 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 an unwarranted 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.**
- i. 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. In order to provide the fullest amount of accountability possible and to avoid the disharmony in the community which results from a person appointing a relative, a Town Officer or employee must recuse himself/herself even when making an appointment solely within his or her discretion of a person to a non-policy making position.
 - ii. 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 valued over twenty-five dollars (\$25.00), nor shall he/she accept or solicit under circumstances in which it could reasonably be inferred that the gift 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 Saugerties is an adverse party or complainant against the private party represented..
- e. **Appearances.** A Town officer or employee shall not appear before any agency of the Town, except on his/her own behalf or on behalf of the Town.
- f. **Confidential information.** Town officers and employees and former Town officers and employees shall not disclose any confidential information

acquired by him/her in the course of his/her official duties or use such information to further anyone's private interests.

- g. **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. No person shall permit political materials to be placed on Town Property, except in accord with a policy adopted by the Town Board, which for example, may permit political materials when a specific portion of Town property is reserved by a political group for a political function.
- h. **Future employment.** For a period of one (1) year after termination of his/her term of office or employment with the Town, other than acting on behalf of himself/herself, no former Town official or employee may appear before the Town, including boards and commissions on which the former official or employee has represented the Town, in relation to any matter upon which he/she had discretionary power during his/her term of office or employment with the Town, unless requested to provide information by the Town Board.
- i. **Avoidance of conflicts.** Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would put them in violation of this 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.**
 - i. 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.

- ii. 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.
 - iii. 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. **Conduct of Specific Officials**
- i. A town officer, employee or appointee (defined herein) of the Town of Saugerties shall treat all members of the public, whether a person, firm, corporation or other organization, with equal consideration and without special advantage. Every such employee shall also endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.
 - ii. Town officers, whether elected or appointed, who are required to take and file the constitutional oath of office, shall not be officers of political committees.
 - iii. Certain officers and employees are hereby listed specifically below, due to the unique nature of their offices and positions which may in turn raise ethical conflicts unique to those positions.
 - (1) An Assessor shall not engage in any real estate, construction, building contracting or building materials business or have a

financial interest in or accept compensation from any person or other entity engaging in such business within the Town of Saugerties during his her term of office.

- (2) Any town officer or employee with a professional license, including the town's Attorney, Engineer and Accountant, shall promptly recuse himself or herself from acting on any matter before the town or any town agency involving any person or other entity that is or has been a client within the past year.
 - (3) Officers and employees authorized to conduct inspections and issue permits. No town officer or employee with the authority to conduct inspections or issue permit approvals, shall engage in a business or have a financial interest in or accept compensation from any firm engaging in a business regularly subject to such inspections or requiring such permits within the authority of such officer or employee.
 - (4) Public safety officers, e.g., police officers, animal control officers, building inspectors and fire inspectors. No public safety officer shall have any financial interest in or receive compensation from any commercial firm that within the Town of Saugerties engages in private investigations, accident reconstruction, home inspection, fire prevention or inspection, sales and / or installation of alarm systems or any other activity related to the officer's official duties, except that such officers shall be permitted to participate in volunteer fire or emergency medical organizations. Police officers shall be permitted to engage in off-duty employment as security guards or traffic police on terms and conditions agreed to by the town and any union having a collective bargaining agreement.
- o. **Discrimination Prohibited.** No Town officer or employee shall in the performance of his or her duties violate state or federal anti-discrimination laws. .

Section 4. 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 4 shall be guilty of a misdemeanor, to the extent provided by section 805 of the General Municipal Law.

Section 5. 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 means communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone or by other electronic means.

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 Saugerties established pursuant to Section 8 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.

Immediate family member means a spouse, significant other, child over 18 years of age, and also a person claimed as a dependent on the Town officer's or employee's latest individual state income tax return.

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.

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 Saugerties 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;
2. a volunteer firefighter or civil defense volunteer, except fire chief or assistant fire chief; or
3. A member of an advisory board of the Town, if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the Town or to restrict the authority of the Town to act. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this paragraph.

Section 6. APPLICANT DISCLOSURE: LAND USE APPLICATIONS.

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

Section 7. 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. Town Attorney
 11. Receiver of Taxes
 12. Chief of Police
 13. Water/Sewer Superintendent
 14. 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:
- i. within sixty (60) days after the effective date of this Local Law;
 - ii. within thirty (30) days of taking office of those positions listed above; and
 - iii. no later than January 31 of 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.
- e. **Maintenance of Annual Disclosure Statements and Waiver Request Forms.** The Town Clerk shall transmit to the Ethics Board all Annual Disclosure Statements required by this Local Law within five (5) business days of receiving such statement(s). All Annual Disclosure Statements shall be submitted in sealed envelopes. All disclosure statements shall remain confidential and not be disclosed to any person other than a member of the Ethics Board.
- 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.

Section 8. ETHICS BOARD.

a. Establishment.

- i. The Ethics Board shall consist of five (5) members appointed by the Town Board.
- ii. The term of office shall be five (5) years, running on a calendar year basis. One (1) member shall serve until December 31 of the year in which the Board is established, one (1) shall serve until the second December 31, one (1) shall serve until the third December 31, one (1) shall serve until the fourth December 31 and one (1) shall serve until the fifth December 31.
- iii. 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.
- iv. 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.
- v. Members shall serve without compensation and will be reimbursed for all reasonable and necessary expenses, provided they receive prior approval from the Town Board.
- vi. The Ethics Board shall elect a Chair from among its members. 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.
- vii. A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.
- viii. 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.
- ix. 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**

- i. All members of the Ethics Board shall reside in the Town of Saugerties.
- ii. No more than two (2) members of the Ethics Board may be enrolled in the same political party. No member shall hold office in a political party committee or be an officer of another's election campaign or committee or be a member of the Town Board of the Town of Saugerties.
- iii. One (1) member may be an appointed officer or employee of the Town.
- iv. Consecutive service on the Ethics Board shall not exceed two (2) five (5) year terms.
- v. Members shall file their oath of office with the Town Clerk.

c. **Powers and duties.**

- i. To administer and enforce all the provisions of this Local Law.
- ii. To prescribe and promulgate rules and regulations governing its own organization and procedures.
- iii. 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 an 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 8D 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.
- iv. 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.

- v. 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.
- vi. 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 shall, if the violation can be cured, 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;

- vii. 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.
 - viii. To provide for public inspection of certain records.
 - (1) 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.
 - (2) 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.
 - ix. 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.
 - x. To monitor employee and Town officer compliance with decisions and recommendations made by the Ethics Board.
 - xi. 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) (see Appendix C). 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.

f. **Adjudicatory Proceedings**

i. In the event the Board of Ethics convenes a hearing pursuant to applicable provisions of this law, the following procedures shall be followed:

- (1) All concerned parties shall be given a notice of such hearing of not less than ten (10) days which notice shall include:
 - (a) a statement of the time, place and nature of the hearing;
 - (b) a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (c) a reference to the particular sections of laws, ordinance, statute, rules or resolutions involved wherever possible;
 - (d) a short and plain statement of matters asserted.
 - (e) the notice of hearing or proceeding shall contain information concerning circumstances under which an

adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.

(f) the notice of hearing or proceeding shall inform the parties and their representatives of the right of each party to be represented to testify, to produce witnesses, to present documentary evidence and to examine opposing witnesses

ii. Upon application of any party a more definite and detailed statement shall be furnished whenever the Board of Ethics finds that the statement is not sufficiently definite or not sufficiently detailed. The findings of the Board of Ethics as to the sufficiency or detail of the statement or its failure or refusal to furnish a more definite or detailed statement shall not be subject to judicial review. Any statement furnished shall be deemed in all respects to be a part of the notice of hearing.

iii. All parties shall be afforded an opportunity to present a written argument on issues of law and an opportunity to present evidence in such argument of issues of fact provided however nothing contained herein shall be construed to prohibit an agency from allowing parties to present oral arguments within a reasonable time. In fixing the time and place for hearings and oral arguments the convenience of the parties and witnesses, the subject matter of the hearings and the public welfare sought to be protected shall be considered.

iv. A disposition may be made of any adjudicatory proceeding by stipulation, agreed settlement, consent order, default or other informal method, Unless precluded by statute, local law or ordinance.

g. **RECORD**

i. The record in the adjudicatory proceedings shall be a verbatim transcript and include:

- (1) all notices, pleadings, motions, intermediate rulings;
- (2) evidence presented;
- (3) a statement of matters officially noticed except matters so

obvious that a statement of them would serve no useful purpose;

- (4) questions and offers of proof, objections thereto and rulings thereon;
 - (5) proposed findings and exceptions, if any;
 - (6) any findings of fact, conclusions of law or other recommendations made by the Board of Ethics; and
 - (7) any decision, determination, opinion, order or report rendered.
- ii. The Board of Ethics shall make a complete record of all adjudicatory proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board of Ethics may use whatever means it deems appropriate including but not limited to the use of stenographic transcriptions or electronic recording devices. Upon request made by any party upon the Board of Ethics within a reasonable time, but prior to the time for commencement of judicial review giving notice of decision, determination, opinion or order the Board of Ethics shall prepare the record together with any transcript of proceedings within a reasonable time and furnish a copy of the record and transcript or any part thereof to any party as he or she may request. Except when prohibited by law, the Board of Ethics is authorized to charge not more than its actual cost for the preparation and furnishing of such record or transcript or any part thereof, or the rate specified in the contract between the Board of Ethics and a contractor if prepared by a private contractor.
- iii. Findings of fact shall be based exclusively on the evidence and on matters officially noticed, as set forth in the record.
- h. **EVIDENCE**
- i. Irrelevant or unduly repetitious evidence or cross examination may be excluded. Except as otherwise provided by statute, the burden of proof shall be on the party who initiates the proceeding. No decision, determination, or order shall be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party

to the proceeding and supported by and in accordance with substantial evidence. Unless otherwise provided by statute, the Board of Ethics, need not observe the rules of evidence observed by courts, but shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noticed in the record. Subject to these requirements the Board of Ethics for the purpose of expediting a hearing and when the interest of the parties shall not be substantially prejudiced thereby may adopt procedures for the submission of all or part of the evidence in written form.

- ii. All evidence including records and documents in the possession of the Board of Ethics of which it desires to avail itself shall be offered and made a part of the record and all such documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. In case of incorporation by reference, the material so incorporated shall be available for examination by the parties before being received in evidence.
- iii. A party shall have the right of cross examination.
- iv. Official notice may be taken of all facts of which judicial notice could be taken and of all other facts within the specialized knowledge of the Town of Saugerties or the Board of Ethics. When official notice is taken of a material fact not appearing in the evidence in the record and of which judicial notice could not be taken, every party shall be given notice thereof and shall on timely request be afforded an opportunity prior to decision to dispute the fact or its materiality.

i. **OATHS**

- i. All oaths required may be taken before any person authorized to administer oaths within the State of New York.
- ii. Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to this chapter.

j. **CONDUCT OF HEARING**

The Board of Ethics exercising discretion may elect to conduct any hearing or proceeding under this chapter ex parte after a showing that the party who is

subject of the hearing and its representative of record have been notified by certified mail of the pending hearing or proceeding or otherwise personally served with notice of hearing. The party who is subject of the hearing shall at no time be deprived of the opportunity to appear. However, the Board of Ethics, upon proof of service, shall have the authority to proceed with the scheduled hearings. Proof of service shall consist of a signed certified mail receipt or affidavit of service.

k. **HEARING OFFICER**

The Board of Ethics reserves the right to appoint a hearing officer. The Board of Ethics may appoint a third party as hearing officer, who shall make a report and recommendation to the board.

l. **POWER and DUTIES OF HEARING OFFICER**

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned.

- i. Administer oaths and affirmations
- ii. At the request of any party, sign and issue subpoenas in the name of the Board of Ethics requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence. Subpoenas shall be regulated by Civil Practice Law and Rules. Nothing herein contained shall effect the authority of an attorney for a party involved to issue such subpoenas under the provisions of the Civil Practice Law and Rules.
- iii. Provide for the taking of testimony by deposition.
- iv. Regulate the course of the hearing, set the time and place for continued hearings and the time for filing of briefs and other documents.
- v. Direct the parties to appear and confer, to consider the simplification or settlement of the issues by consent of the parties.
- vi. Prepare findings of fact recommendations.

m. **DECISIONS, DETERMINATIONS, ORDERS: FINES AND PENALTIES**

- i. At the close of the hearing or proceeding, the hearing officer, if said hearing officer is not the Board of Ethics sitting en masse, shall make

findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board of Ethics en masse for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing in the form of a brief to the findings of fact and the recommendation of the hearing officer and such written response shall be directed to the Board of Ethics for its consideration with fifteen (15) days after submission of the hearing officer's recommendations to the Board of Ethics. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board of Ethics shall act on the findings of fact and recommendation as expeditiously as possible. The Board of Ethics may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.

- ii. In the event that the Board of Ethics sits or presides at any hearing or proceeding en masse, then the provisions pertaining to a Hearing Officer shall not be applicable. The Board of Ethics shall not make any recommendations of findings of fact and a recommendation, but shall act and make findings of fact and a decision based upon the record.
- iii. The assessment of civil penalties under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for a prosecution of criminal charges except where the violation is imposed under the General Municipal Law Section 821 (6) for failure to file or a false filing of an annual statement.
- iv. If the alleged violation has been established and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board of Ethic, in its

discretion, may take such other action as appropriate including but not limited to a recommendation that disciplinary action be taken or a referral to a prosecutor for prosecution of criminal charges. The Board of Ethics shall forward a copy of such admonition or recommendation for disciplinary action to the Town Board.

- v. A final decision, determination or order adverse to a party in an adjudicatory proceeding of the Board of Ethics shall be in writing or stated in the record and shall include finding of fact and conclusion of law or reasons for the decision, determination or order. Findings of fact if set forth in statutory language shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If in accordance with the Board of Ethic's rules a party submitted proposed findings of fact, the decision, determination or order shall include a ruling upon each proposed finding. A copy of the decision, determination or order shall be delivered or mailed forthwith, to each party, the attorney of record and the Town Board.
- vi. The Board of Ethics shall maintain an index by name and subject matter of all written final decisions, determinations and orders rendered by the Board of Ethics in adjudicatory proceedings. Such index and the text of any written final decision, determination or order shall be available for public inspection. The Board of Ethics may delete from any such index decision or determination or on any information that if disclosed would constitute an unwarranted invasion of personal privacy under provisions of Subdivision 2 of Section 89 of the Public Officers Law and may also delete at the request of the Town Board all references to secrets, privileged or confidential matter that if disclosed would cause substantial injury to the Town of Saugerties. Information which would reveal confidential material protected by Federal, State or local law, rule, ordinance or regulation shall be deleted from any such index, decision, determination or order.

Section 9. 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.

Section 10. SUPERSESION 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.

Section 11. MISCELLANEOUS PROVISIONS.

- a. No existing right or remedy pursuant to any other statute, law or regulation 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.

Section 12. 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 Saugerties, 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 Saugerties, 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 or on the enforcement of its provisions.

Section 13. SUPERSESSION.

This Local Law shall supersede and repeal the existing Local Law No. 6 of the year 1970 which became law October 21, 1970 and Chapter 2 of the Town of Saugerties Municipal Code .

Section 14. 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.