

Chapter 13

CODE OF ETHICS

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[HISTORY: Adopted by the Town Board of the Town of Ontario 6-22-1970; amended in its entirety 12-22-2008 by L.L. No. 5-2008. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 21.

§ 13-1. Intent.

The Town Board of the Town of Ontario recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this Town as part of our state's important system of local government. It is the purpose of this code to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the Town's officers and employees as provided for herein.

§ 13-2. Applicability.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflict of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of Town officers to the extent that the same are more severe in their application than this code.

§ 13-3. Definitions.

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

BOARD — The Town Board, and any board of the Town of Ontario appointed by the Town Board, including but not limited to the Zoning Board of Appeals, the Planning Board,

Watershed Management Advisory Council, the Board of Ethics, the Recreation and Parks Advisory Board, and the Board of Assessment Review.

CODE — The Code of Ethics of the Town of Ontario, codified by this chapter.

TOWN — The Town of Ontario, including any board, commission, district, council or other agency, department or unit of the government of the Town of Ontario.

TOWN EMPLOYEE — Any Town official or employee, elected or appointed, including board members, whether serving in a full-time, part-time or advisory capacity.

§ 13-4. Standards of conduct.

- A. No Town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest
- B. No Town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- C. No Town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- D. No Town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- E. No Town employee shall engage in any transaction as representative or agent of the Town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- F. A Town employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.
- G. Each Town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- H. Each Town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust
- I. No Town employee nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Town in which such employee serves or is employed.

- J. Any Town employee who has a financial interest, direct or indirect, in a property or matter which is the subject of any pending or proposed proceeding before any board of the Town that such employee is aware of shall disclose such employee's interest to the involved board prior to the hearing of such proceeding, and if such official or employee is a voting member of such board, such employee shall recuse themselves as appropriate from any discussion or vote upon such matter. The disclosure shall be included in the minutes of such board to avoid the appearance of impropriety.
- K. A Town employee shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.
- L. Acceptance of gifts.
- (1) Employees shall not directly or indirectly accept nor solicit any gift, favor or service in whatever form under circumstances from which it could reasonably be inferred that the gift was intended to influence them or reasonably be expected to influence them in the performance of their official duties, or was intended as a reward for any official act on their part.
 - (2) Gifts include anything of value to the recipient from any existing or potential vendor, contractor, utility corporation or customer including a gift, loan, reward, promise of future employment, favor or service based on the understanding that the official action or judgment of the employee or official would be thereby influenced.
 - (3) This restriction also applies to family members and others in whose welfare the employee or official is directly interested. It is not intended to isolate employees and officials from normal social practices where gifts among friends, associates or relatives are appropriate for certain occasions.
 - (4) If employees or officials receive an unsolicited gift or gratuity worth more than \$25, they shall, upon receipt, report the gift or gratuity to the Town Board who shall document such acceptance.
 - (5) If the gift is a perishable item such as food and has a nominal market value (less than \$25), the employee or official may accept the gift on behalf of the Town and share it with the public, visitors, and office employees.
- M. Nepotism. It is the Town's intent to eliminate employment practices which result in conflicts of interest, favoritism or appearance of impropriety.
- (1) No person shall be employed in the same department in which a relative is working if one supervises or evaluates the other.
 - (2) No employee shall be transferred to a department in which a relative is working if one supervises or evaluates the other.
 - (3) This Subsection M shall not apply to employees assigned before its effective date. A "relative" is defined for these purposes as a spouse, domestic partner, parent,

child, sibling, uncle, aunt, first cousin, nephew, niece, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, step-parent, step-child, step-sibling, or half-sibling. A "domestic partner" is defined as a person with whom the employee shares a residence within the context of a committed relationship.

§ 13-5. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any such Town employee who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment in the manner provided by law.

§ 13-6. Board of Ethics.

- A. The Board of Ethics shall consist of five regular members. Each member shall be an elector of the Town who is known for their integrity, and who shall serve without compensation. A majority of such members shall be persons other than Town employees, but at least one member shall be a Town Employee. The members shall be appointed by the Town Board for a term of five years, except that of the members appointed in 2008, one shall serve for one year, one for two years, one for three years, one for four years and one for five years.
- B. The Board of Ethics established hereunder shall render advisory opinions to Town employees and boards. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the Town employee be disclosed except as provided in § 13-6D of this code or when otherwise required by law, and may be disclosed at the option of the employee that is the subject of the opinion. The Board of Ethics may request advice from the Attorney for the Town.
- C. Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings. Such records shall be entrusted to the Town Clerk for confidential storage.
- D. Any Town Board member or other board of the Town may request an advisory opinion from the Board of Ethics. Any other Town employee or member of the general public may request an advisory opinion from the Ethics Board by presenting such request in writing to the Town Clerk who shall present it to the Ethics Chair who will determine whether it is appropriate to refer it to the Board of Ethics. The Board of Ethics shall present the opinion found to the Town Board and any board or employee that requested the opinion, or is the subject of such opinion, and file it with the Town Clerk.
- E. The Board of Ethics will review this code, reassess and make any necessary recommendations to this code at least once every four years or more frequently as needed.
- F. The Board of Ethics shall meet at least one time each year in February.

§ 13-7. Distribution of copies.

- A. Upon the adoption or amendment of this code, the Town Supervisor shall cause a copy thereof to be distributed to every Town employee of this Town. A copy of this code will be included in every employee handbook distributed by the Town. Failure to distribute any such copy or failure of any Town employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this code to be kept posted conspicuously in each public building under the jurisdiction of the Town. Failure to so post this code shall have no effect on the duty of compliance herewith nor the enforcement of provisions hereof.
- B. Within 30 days of the adoption of this code, the Town Clerk shall file a copy thereof in the office of the State Comptroller.
- C. A copy of this code will be given to every Board member upon their initial appointment or swearing in, and every other employee upon hire.
- D. It is recommended that all Town employees sign a statement that they have received a copy of this code. Such signed statement shall be filed with the Town Clerk.

§ 13-8. Expenditures.

The Town Board may appropriate moneys from the general Town funds for the maintenance of and for personal services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of Town moneys except within the appropriations provided herein.

§ 13-9. Invalidity.

If any provision of this code is determined to be unconstitutional or invalid, the validity and enforceability of the remainder of this code shall not be affected.

