

NEW YORK STATE DEPARTMENT OF STATE

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

Town of New Paltz

~~Village~~

Local Law No. \_\_\_\_\_ of the year 2014

A local law TO REPEAL AND REPLACE CHAPTER 15, "ETHICS" OF THE CODE OF THE TOWN OF NEW PALTZ.

Be it enacted by the Town Board of the

~~County~~

~~City~~

Town of New Paltz as follows:

~~Village~~

**Section 1. Repealer.**

Chapter 15, entitled "ETHICS" of the Code of the Town of New Paltz is hereby repealed in its entirety.

**Section 2. Code of Ethics**

The Code of the Town of New Paltz is hereby amended to add a new Chapter 15, entitled "ETHICS" to read as follows:

**Section 15-1. Purpose.**

Officers, employees and consultants of the Town of New Paltz hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

**Section 15-2. Definitions.**

(a) “Board” means the governing board of a municipality and any municipal administrative board, commission or other agency or body comprised of two or more municipal officers or employees.

Comment [C1]: Delete parenthesis

(b) “Code” means this code of ethics.

(c) “Interest” means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock.

(d) “Municipality” means Town of New Paltz. The word “municipal” refers to the municipality.

(e) “Municipal officer or employee” means a paid or unpaid officer or employee of the Town of New Paltz, including, but not limited to, the members of any municipal board.

(f) “Relative” means a spouse, parent, step-parent, sibling, step-sibling, sibling’s spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

(g) “Spouse” means a spouse or registered domestic partner.

(h) “Consultant” means a person, paid or unpaid, providing advice to and at the request of a municipal board, committee, commission or other body.

(i) “Office in a political party, club or association, society or committee” means the office of chairman, secretary, treasurer and such other officer as the rules of the particular body may provide.

### **Section 15-3. Applicability.**

This code of ethics applies to the officers and employees of the Town of New Paltz, and shall supersede any prior municipal code of ethics. The provisions of this code of ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law (Conflicts of Interest of Municipal Officers and Employees) and all rules, regulations, policies and procedures of the Town of New Paltz.

### **Section 15-4. Prohibition on use of municipal position for personal or private gain.**

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

(b) Representation before one's own agency. No officer, employee or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal department, board, commission or committee of which he or she is a member or employee or to which he or she has the power to appoint any member, officer or employee.

(c) Representation before any agency for a contingent fee. No officer, employee or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any department, board, commission or committee of the Town whereby his or her compensation is to be dependent or contingent upon any action by such department, board, commission or committee with respect to such matter. This subsection shall not prohibit fees based upon the reasonable value of the services rendered. |

Comment [C2]: Duplicate text

### Section 15-5. Disclosure of interest in legislation and other matters.

(a) All Town officers are required, within 30 days of taking office, or within 30 days of the effective date of this chapter, to file a disclosure statement on a form provided by the Town of New Paltz pursuant to this section. In the event that a change occurs with respect to any information required on the aforesaid disclosure statement, the party required to file such a statement shall file an amended statement reflecting any such change in circumstances within 60 days from the date thereof, unless requested by the Board of Ethics to do so sooner, in which case an amended statement shall be filed within 10 days of the request for the same. Failure to file the required disclosure statement or any amendment thereto in a timely fashion shall be deemed a violation of this chapter.

Town officers required to file disclosure statements are:

- (1) Elected Officials [excepting Town Justices]
- (2) Public Officers under the Public Officers Law
- (3) Members of Boards
- (4) Members of Commissions
- (5) Department heads and their supervisory assistants
- (6) All Town officials responsible for purchasing under the *Procurement Policy for the Town of New Paltz*.
- (7) Town Engineer
- (8) Town Attorney
- (9) Consultants

(b) Whenever a matter requiring the exercise of discretion comes before a municipal officer, an employee or consultant, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer, employee or consultant shall disclose in writing the nature of the interest on a form provided by the Town Clerk.

Comment [C3]: Capitalize Clerk

(c) The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer, employee or consultant, or when the municipal officer, employee or consultant, first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(d) In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the

person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

**Section 15-6. Recusal and abstention.**

(a) No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

(b) In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

(3) if the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

**Section 15-7. Prohibition inapplicable; disclosure, recusal and abstention not required.**

(a) This code's prohibition on use of a municipal position (section 4), disclosure requirements (section 5), and requirements relating to recusal and abstention (section 6), shall not apply with respect to the following matters:

(1) adoption of the municipality's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(i) all municipal officers or employees;

(ii) all residents or taxpayers of the municipality or an area of the municipality;

or

(iii) the general public; or

(3) any matter that does not require the exercise of discretion.

(b) Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 6 of this code;

(2) which comes before a municipal officer when the officer would be prohibited from acting by section 6 of this code and the matter cannot be lawfully delegated to another person.

**Section 15-8. Investments in conflict with official duties.**

- (a) No municipal officer or employee may acquire the following investments:
  - (1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 6 of this code; or
  - (2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- (b) This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
  - (1) real property located within the municipality and used as his or her personal residence;
  - (2) less than five percent of the stock of a publicly traded corporation; or
  - (3) bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

**Section 15-9. Private employment in conflict with official duties.**

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

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

**Section 15-10. Future employment.**

- (a) No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- (b) No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she served.

(c) No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

**Section 15-11. Personal representations and claims permitted.**

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

- (a) representing himself or herself, or his or her spouse or minor children before the municipality; or
- (b) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

**Section 15-12. Use of municipal resources**

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

**Section 15-13. Interests in Contracts.**

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

**Section 15-14. Nepotism.**

Except as otherwise required by law:

(a) No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

(b) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties without prior approval of the Town Board.

(c) Disclosure of relationships, as defined in Section 2 (f), must be made by the person seeking employment and/or appointment with the Town of New Paltz.

#### **Section 15-15. Political Solicitations.**

(a) No municipal officer or employee shall directly or indirectly compel or induce or attempt to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(b) No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(c) No municipal officer or employee shall use his or her official position to obtain, provide, furnish or supply any municipal resource, including but not limited to personnel, services, equipment, supplies or facility on behalf of any political party or candidate, political club or association or any political society or committee. In addition, no elected official or any chairperson of any Town committee, commission or board shall hold office in any political party, political club or association, society or committee. This provision shall not be interpreted or construed as precluding any municipal officer or employee from being involved in the political affairs of the Town as a private citizen, nor shall it preclude any municipal officer or employee from soliciting and/or receiving campaign contributions in the course of a political campaign for public office conducted pursuant to the laws of the State of New York, nor shall it exempt any municipal officer or employee from any federal, state or local rules, regulations, codes of conduct or other restrictions imposed by law.

#### **Section 15-16. Confidential Information.**

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

#### **Section 15-17. Gifts.**

(a) No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) (Gifts) of the General Municipal Law as interpreted in this section.

- (b) No municipal officer or employee may directly or indirectly solicit any gift.
- (c) No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars (\$75.00) or more when:
- (1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
  - (2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
  - (3) the gift is intended as a reward for any official action on the part of the officer or employee.
- (d) For purposes of this section, a “gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars (\$75.00) must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- (e) (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
- (2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.
- (f) This section does not prohibit any other gift, including:
- (1) gifts made to the municipality;
  - (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
  - (3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
  - (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
  - (5) awards and plaques having a value of seventy-five dollars (\$75.00) or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or
  - (6) meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

**Section 15-18. Board of Ethics.**



(a) **Membership** - There is hereby established a Board of Ethics of the Town. The members of such Board of Ethics shall be appointed by the Town Board and shall consist of five members, one and not more than one of whom shall be an employee of the Town of New Paltz, and none of whom shall be an officer of the Town or member of the Town Board. Appointment of members to the Board of Ethics shall be by the affirmative vote of a majority plus one of the members of the Town Board present and voting thereon.

(b) **Terms of Members** - In the creation of a new Board of Ethics, or the reestablishment of terms of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such member was initially appointed. The remaining members' terms shall be so fixed that two members' terms shall expire at the end of the next year thereafter and two members' terms shall expire at the end of the second year next succeeding the end of the year in which such members were initially appointed. At the expiration of each original member's appointment, the replacement member shall be appointed for a term equal in years to the term of the member replaced.

**Comment [C4]:** This is not quite correct. Terms are five years. One member's term expires at the end of each calendar year.

(c) **Vacancies** - If a vacancy shall occur otherwise than by expiration of a term, the Town Board shall appoint a new member for the unexpired term.

(d) **Removal of Members** - The Town Board shall have the power to remove, after public hearing, any member of the Board of Ethics for cause.

(e) **Chairperson** - The Board of Ethics shall designate the Chairperson thereof, and, in the absence of a Chairperson, the Board of Ethics may designate a member to serve as Acting Chairperson.

(f) **The Books and Records** - The Board of Ethics shall designate a member to serve as Recording Secretary who shall be in charge of its minutes, books and records. In the absence of a Recording Secretary, the Board of Ethics may designate a member to serve as Acting Secretary.

(g) **Quorum and Voting** - Three members of the Board of Ethics shall constitute a quorum. A vote of at least four members shall be required for the Board of Ethics to take any action. The Attorney for the Town shall provide such legal and advisory services to the Board of Ethics as it may require in the performance of its duties.

(h) **Powers and Duties** - The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall:

(1) promptly render advisory opinions to the officers and employees of the Town regarding their own conduct with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter and to officers of the Town regarding the conduct of any officer, employee or consultant with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter.

- (a) The Ethics Board is authorized pursuant to this local law to employ the services of an attorney to provide legal assistance and advice at any stage of the Ethics Board's inquiry into any matter;
- (b) The Ethics Board shall promptly deliver its advisory opinion to the Town Clerk together with one (1) copy thereof to each member of the Town Board and to the attorney for the town;

- (c) The Town Board, within five (5) business days next following receipt of an advisory opinion of the Ethics Board, shall convene a meeting to review such opinion and thereafter shall take such action as is appropriate under the circumstances;
- (d) Advisory opinions of the Ethics Board shall be subject to Article 6, section 87 of the Public Officers Law of the State of New York (“Freedom of Information Law”) and shall be made available by the Town Clerk as town records access officer to the subject of the inquiry and to the public in accordance with Article 6, section 87 of the Public Officers Law of the State of New York (“Freedom of Information Law”);
- (e) Within two (2) business days following a final determination by the Town Board with respect to the matters contained in the advisory opinion of the Ethics Board, the Town Clerk, unless expressly prohibited by law, shall furnish to the subject of the ethics inquiry a copy of such Town Board determination together with a copy of the advisory opinion of the Ethics Board;
- (f) It shall be a violation of this local law for any municipal officer, employee or consultant to influence or attempt to influence the independent exercise or performance of the official duties or responsibilities of the Ethics Board with respect to any inquiry. For purposes of this subdivision, the presence of and participation by a member of the Town Board as liaison to the Ethics Board at its meetings and in its deliberations shall not alone constitute a violation of this chapter.

**Comment [C5]:** We do not understand the phrase, “...opinions ... shall be subject to ... the Town Clerk ...”. Perhaps what is meant is that, “... opinions shall be the responsibility of the Town Clerk.”???

(2) make recommendations with respect to the drafting and adoption of the Code of Ethics or amendments thereto upon request of the Town Board.

(3) have the responsibility to review disclosure statements filed pursuant to Section 5.

**Comment [C6]:** Break into two sentences. End first sentence after “inquiry”. Re-word second sentence.

**(i) The Board of Ethics Shall** - convene at least twice a year and at such times as may otherwise be necessary. The Board of Ethics may adopt rules and regulations relative to the conduct of its business but may only render advisory opinions subject to these limitations:

- (1) Requests shall be in writing.
- (2) Requests or inquiries must originate with a municipal officer or employee.
- (3) Requests or inquiries must relate to the Town's Code of Ethics.
- (4) The opinion must be approved as to legal sufficiency by the Attorney for the Town.

**(j) 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 (Freedom of Information Law) or by some other state or federal law or regulation.

**(k) Meetings of the Ethics Board** shall be conducted in accordance with the provisions of Article 7 of the Public Officers Law (Open Meetings Law) and with all applicable state and federal laws and regulations.

### Section 15-19. Posting and distribution.

(a) The Supervisor must cause the following notice to be posted publicly and conspicuously in each building under the municipality’s control. “Town of New Paltz officers, employees and

consultants must abide by the requirements of Local Law Chapter 15, ETHICS. Copies of the Local Law may be obtained from the Town Clerk.”

(b) The Supervisor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the Town of New Paltz.

(c) Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.

(d) The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this code of ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

#### **Section 15-20. Enforcement.**

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

#### **Section 2. Severability.**

If any section, clause, or provision of this local law shall be declared to be unconstitutional, void, illegal, or ineffective by any court of competent jurisdiction, such section, clause, or provision declared unconstitutional, void, or illegal shall thereby cease to be a part of this local law, but the remainder of this law shall stand and be in full force and effect.

#### **Section 3. Effect on other laws.**

To the extent that this local law may be found to be inconsistent with any provision of the New York State Town Law or any special law, the Town Board declares that it is its intent that this local law shall supercede any such inconsistent provision in order to effectuate the purposes of this local law.

#### **Section 3. Effective Date.**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.