

## Chapter 15

### Ethics, Code of

[Enacted by Local Law No. 1 of 2011]

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## **Chapter 15**

### **Ethics, Code of**

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#### **15-1. Purpose.**

Officers and employees of the Town of Amenia 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 rules of ethical conduct for public officers and employees must be observed if a high degree of moral conduct is to be obtained and if public faith and confidence is to be maintained in local government. The Town of Amenia 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.

#### **15-2. Definitions.**

- (a) “Board” means the Town Board of the Town of Amenia, and any other administrative board, commission, committee, or other agency or body of the Town of Amenia comprised of two or more officers or employees (e.g., Planning Board, Zoning Board of Appeals, Recreation Commission, Workforce Housing Board, Board of Ethics).
- (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. An 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” or “Town” means the Town of Amenia. The word “municipal” also refers to the Town of Amenia.
- (e) “Officer or employee” means a paid or unpaid officer or employee of the Town of Amenia, including, but not limited to, the members of any board. “Officer and employee” shall not include independent contractors engaged to provide services, goods or materials to the Town.
- (f) “Relative” means a spouse, parent, step-parent, sibling, child, step-child, or household member of an officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

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

This code of ethics applies to the officers and employees of the Town of Amenia, 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 and all rules, regulations, policies and procedures of the Town of Amenia.

A copy of article 18 of the General Municipal Law shall be provided to all officers and employees of the Town at the time of their initial appointment or hire. A copy of all amendments to article 18 of General Municipal shall be provided to all officers and employees of the Town at the time of adoption. A copy of article 18 of the General Municipal Law, as it may be amended from time to time, shall be prominently displayed in Town Hall, and shall also be maintained on file in the Town Clerk's Office.

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

No 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.

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

(a) Whenever a matter requiring the exercise of discretion comes before an officer or employee, 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 officer or employee shall disclose in writing the nature of the interest.

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

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board. 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 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 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.

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

(a) No 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 an officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in an 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 an officer individually, then the power or duty shall be exercised or performed by his or her deputy if that deputy has been approved or appointed by the Town Board. If the officer does not have a deputy, or if that deputy has not been approved by the Town Board, then the power or duty shall be delegated to a person selected by the Town Board.

(3) if the power or duty is vested in an employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall either personally exercise that power or duty, or shall designate another person to exercise or perform the power or duty. If the employee does not have an immediate supervisor, then the power or duty shall be delegated to a person selected by the Town Board.

**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 Town's annual budget, except that a Town Board member who has an "interest" in a particular line item of the budget as defined in section 2(C) of this Code shall comply with the requirements of sections 4, 5 and 6 of this Code during preliminary budget meetings and budget hearings with respect to that particular line-item, and shall only participate in the Town Board's consideration of that line-item to the extent necessary to adopt or reject the Town's annual budget as a whole;

(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 officers or employees;

(ii) all residents or taxpayers of the Town or an area of the Town; 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 be prohibited from acting by section 6 of this code;

(2) which comes before an officer when the officer would be prohibited from acting by section 6 of this code and, in the opinion of the Town Attorney, the matter cannot be lawfully delegated to another person.

(c) In the event that recusal and abstention are not required pursuant to section 7(b) of this Code, disclosure of the interest shall still be required as provided in section 5 of this Code.

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

(a) No 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 an officer or employee from acquiring any other investments or the following assets:

(1) real property located within the Town 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 Town and acquired more than one year after the date on which the bonds or notes were originally issued.

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

No officer or employee, during his or her tenure as an 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 an officer or employee;
- (c) violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- (d) requires representation of a person or organization other than the Town in connection with litigation, negotiations or any other matter to which the Town is a party.

**15-10. Future employment.**

- (a) No 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 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 officer or employee, for the two-year period after serving as an officer or employee, may represent or render services to a private person or organization before the municipal office, board, department or comparable organizational unit for which he or she formerly served in connection with any matter involving the exercise of discretion by a current officer or employee.
- (c) No officer or employee, at any time after serving as an 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 an officer or employee.

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

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

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

**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 Town's money, vehicles, equipment, materials, supplies or other property.

(b) No 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, municipal policy, or Town Board resolution; or

(2) the use of municipal resources for personal or private purposes when provided to an officer or employee as part of his or her compensation.

(c) No officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

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

(a) No officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.

(b) Every officer and employee shall disclose interests in contracts with the Town at the time and in the manner required by section 803 of the General Municipal Law.

**15-14. Nepotism.**

Except as otherwise required or expressly authorized by law, or as expressly authorized by the Town Board:

(a) No 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 Town or a municipal board, except that this prohibition shall not apply if the officer or employee who is being considered for promotion, discipline or discharge was appointed or hired prior to the adoption of this Article.

(b) No officer or employee may supervise a relative in the performance of the relative's official powers or duties, except that this prohibition shall not apply if the officer or employee who is being supervised was appointed or hired prior to the adoption of this Article.

(c) Nothing in this section shall impair any rights that an eligible civil service employee may have pursuant to the Civil Service Law.

**15-15. Political Solicitations.**

(a) No officer or employee shall directly or indirectly compel or induce a subordinate 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 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 officer or employee, or an applicant for a position as an 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.

**15-16. Confidential Information.**

No 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.

**15-17. Gifts.**

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

(b) No officer or employee may directly or indirectly solicit any gift.

(c) No officer or employee may accept or receive any gift,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.

(e) (1) A gift to an 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 an 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 Town;

(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 an 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 or less which are publicly presented in recognition of service as an officer or employee, or other service to the community; or

(6) meals and refreshments provided when an 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.

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

(a) A local Board of Ethics has been established pursuant to section 808 of the General Municipal Law, consisting of five members appointed by the Town Board. One and only one member shall be a Town officer or employee. Members shall be residents of the Town of Amenia and shall serve without compensation and for five-year terms. These terms have been and shall remain staggered so that one member's term shall expire at the end of each year. If a vacancy occurs for reasons other than by expiration of a member's term, the Town Board shall appoint a new member to serve for the remainder of the unexpired term. The Board of Ethics shall appoint one of its members as Chairman.

(b) The Board of Ethics shall render, in writing, to the Town Board advisory opinions with respect to the interpretation and application of this chapter or of Article 18 of the General Municipal Law. Such opinions shall be rendered at the written request of the

Town Board or of an officer or employee who submits a written request for such opinion on his own actions or situation. The Town Board shall refer written, documented and sworn complaints to the Board of Ethics. Opinions of the Board of Ethics shall be solely for the guidance of the officer or employee involved and the Town Board.

(c) The Board of Ethics shall have the power to conduct a fact-finding investigation in connection with any properly filed request for an advisory opinion or referral of a sworn complaint. This power of investigation shall include the power to take proof concerning compliance with ethics regulations, including without limitation the power to issue subpoenas for the production of testimony, documents and other evidence. However, the Board of Ethics shall not be required to issue a subpoena or to conduct a testimonial hearing if the Board determines in its sole discretion that the requested advisory opinion can be issued without resorting to the exercise of these investigatory powers. The decision to conduct a hearing or to issue a subpoena must be approved by the Board of Ethics.

(d) The Board of Ethics may prescribe rules and regulations governing its own internal organization and procedure in a manner consistent with this chapter and the General Municipal Law.

(e) The Board of Ethics may make recommendations to the Town Board with respect to amendments to or administration of this Code of Ethics.

(f) The Board of Ethics shall have such other powers and duties prescribed by section 808 of the General Municipal Law not specifically identified herein.

(g) Upon request by the Board of Ethics, the Town Attorney shall provide legal advice and representation to the Board of Ethics. Upon such occasion as the Town Attorney or the Board of Ethics shall consider it appropriate that the Board of Ethics have outside counsel, the Board of Ethics may retain such counsel to serve with respect to particular matters.

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

(a) The Supervisor must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the Town's control. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.

(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.

(c) Every officer or employee who receives a copy of this code or an amendment to the code must acknowledge in writing that he or she has both received and read a copy of this code. Such acknowledgments must be filed with the Town Clerk, who must maintain such acknowledgments as a public record.

(d) The Chairman of the Board of Ethics or his/her designee shall audit the public records of the Town Clerk to confirm that all officers and employees have executed and filed the acknowledgments required by this section. This audit shall be conducted a minimum of one time per year. Upon a finding that an officer or employee has failed to execute or file the requisite acknowledgment, the Board of Ethics shall provide that officer or employee with written notice that such acknowledgment must be signed and filed with the Town Clerk within ten (10) days. The continued failure or refusal to execute and file such an acknowledgment following receipt of this notice from the Board of Ethics is a violation of this code.

(e) 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 an 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.

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

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

(b) In addition to any other remedies or penalties that may exist to enforce this code, the Town Board may also authorize commencement of a proceeding to obtain injunctive relief from a court of appropriate jurisdiction to restrain, prevent and enjoin violations of this code and to compel compliance with this code.