

LOCAL LAW NO. 9 OF THE YEAR 2018
TOWN OF WAPPINGER CODE OF ETHICS

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

Section -I: TITLE:

This Local Law shall be known and cited as “Town of Wappinger Code of Ethics”

Section -II: REPEAL OF EXISTING CHAPTER 20

Town of Wappinger Local Law 2 of 1970, which is codified at Chapter 20 of the Town of Wappinger Code entitled “Ethics, Code of” is hereby repealed in its entirety.

Section -III: ADOPTION OF A NEW CHAPTER 20

A new Chapter 20 of the Town Code of the Town of Wappinger is hereby adopted to read as follows:

“CHAPTER 20. CODE OF ETHICS

§ 20-1. Legislative Intent.

Article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest. Specifically, section 806 of the General Municipal Law requires the governing body of each county, city (other than the City of New York), town, village, school district and fire district to adopt a code of ethics that sets forth guidance for its elected officials, officers and employees of the standards of conduct reasonably expected of them. The code of ethics adopted by a governing body of a municipality must set forth standards of conduct for the guidance of the officers and employees of the municipality with respect to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed appropriate and advisable.

§ 20-2. Purpose.

The Town Board acknowledges and emphasizes that the officers and employees of the Town of Wappinger 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 of the Town of Wappinger recognizes that, in furtherance of this

fundamental principle, there is a need for clear and reasonable standards of ethical conduct. It is the intention of the Town Board to establish those standards by the adoption of this Chapter.

§ 20-3. Definitions.

- A) “Board” means the Town Board of the Town of Wappinger and any committee, administrative board appointed by the Town Board (e.g. Planning Board, Zoning of Board of Appeals) commission, or other agency, body or department comprised of two or more municipal officers or employees.
- 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 outstanding stock or owns or controls more than a 5% interest of any corporation, partnership, limited partnership, limited liability company or other business entity.
- D) “Municipality” means the Town of Wappinger. The word “municipal” refers to the municipality.
- E) “Municipal officer or employee” means a paid or unpaid officer or employee of the Town of Wappinger, including, but not limited to, the members of any municipal board, whether elected or appointed.
- F) “Relative” means a spouse, domestic partner (as defined in NYS Law), parent, step-parent, sibling, step-sibling, sibling’s spouse, child, child’s spouse, 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.

§ 20-4. Applicability.

- A) This code of ethics applies to the municipal officers and employees of the Town of Wappinger and shall supersede any prior municipal code of ethics previously adopted by the Town of Wappinger. 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 Wappinger.

- B) This code of ethics shall not apply to any consultants employed by the Town Board, Planning Board, Zoning Board of Appeals, or other agency or department including, but not limited to, engineers, attorneys, environmental consultants, accountants, auditors, or other professional consultants employed by the Town in an independent capacity.
- C) Notwithstanding the foregoing and to the extent permitted by law or regulation, any consultant employed by the Town must disclose any interest or affiliation the consultant has with any individual or business entity when such individual or business entity has a matter pending before the Town or any of its boards, agencies or departments and the consultant in the performance of his or her duties must render professional advice or give an opinion to the Town in connection with such pending matter. (Need citation of Mark Davies)

§ 20-5. Prohibition on use of municipal position for personal or private gain.

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.

§ 20-6. Disclosure of interest in legislation and other matters.

- A) Whenever a matter requiring the exercise of discretion comes before a municipal 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 municipal 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 municipal officer or employee, or when the municipal 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 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 or committee, a copy of the disclosure shall be filed with such board or committee. Any disclosure made to such board or committee shall be made publicly at a meeting of the board or committee and must be included in the minutes of the meeting. Copies of all disclosures shall also be filed with the Town Clerk.

§ 20-7. 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.

§ 20-8. Prohibition inapplicable; disclosure, recusal and abstention not required.

- A) This code's prohibition on use of a municipal position (§ 20-5), disclosure requirements (§ 20-6), and requirements relating to recusal and abstention (§ 20-7), 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:
 - (a) all municipal officers or employees;
 - (b) all residents or taxpayers of the municipality or an area of the municipality; or
 - (c) 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 § 20-7 of this code;
- (2) which comes before a board when either New York State Law or the Town's rules require a super majority of the boards total membership to undertake any affirmative action and such recusal or abstention will result in less than the required number of members to take affirmative action to adopt or pass any resolution or local law.
- (3) which comes before a municipal officer when the officer would be prohibited from acting by § 20-7 of this code and the matter cannot be lawfully delegated to another person.

§ 20-9. 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 § 20-7 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.

§ 20-10. Private employment in conflict with official duties.

- A) 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:
 - (1) can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 20-7 of this code;

- (2) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- (3) violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- (4) 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.

§ 20-11. 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) For a period of one year following termination of service as a municipal officer or employee, no 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.
- 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.

§ 20-12. Personal representations and claims permitted.

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

- (1) representing himself or herself, or his or her spouse or minor children before any of the board's committees or agencies of the Town; or
- (2) asserting a claim against any of the board's committees or agencies of the Town on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 20-13. 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.
- D) No municipal officer or employee shall use Town of Wappinger stationary except in the normal course of business of the Town of Wappinger. Under no circumstances shall Town of Wappinger stationary be used by any officer or employee for personal or private use unrelated to the normal course of business of the Town of Wappinger.

§ 20-14. 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.

§ 20-15. 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 unless such relative was reelected as a municipal officer or employee prior to the adoption of this Code of Ethics or prior to the municipal officer having assumed municipal duties.
- B) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties unless such relative was reelected as a municipal officer or employee prior to the adoption of this Code of Ethics, or prior to the municipal officer having assumed municipal duties.

§ 20-16. Political Solicitations.

- A) No municipal officer or employee shall directly or indirectly attempt to compel, 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) The Town Board may regulate political contributions in contracts for professional services that are not subject to competitive bidding in a manner consistent with constitutional rights of free speech and political association and that are not in conflict with any general laws of the State of New York.

§ 20-17. 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.

§ 20-18. Gifts.

- A) No municipal officer or employee shall solicit, accept or receive a gift in violation of 805-a(1)(a) 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 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 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) 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.
- F) 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.
- G) 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 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.

§ 20-19. Board of Ethics.

- A) There is hereby established a Board of Ethics consisting of five members, to be appointed by the Town Board, all of whom shall reside in the Town of Wappinger and who shall serve without compensation and at the pleasure of the Town Board of the Town of Wappinger. A majority of such members shall be persons other than town employees but shall include at least one member who is an elected or appointed town employee of the Town of Wappinger.
- B) Such members of the board of ethics shall serve without compensation for a term of two years commencing with the January following the general election of Town Board members, but at the pleasure of the Town Board.
- C) The members of such Board of Ethics shall be recommended by a Councilmember or the Supervisor and shall be appointed by the Town Board.
- D) Members of the Board of Ethics may not serve on any Board other than the Town Board.

§ 20-20. Duties of the Board of Ethics

- A) The board of ethics shall render advisory opinions to the officers and employees of the Town of Wappinger with respect to any matter identified in Article 18 of the General Municipal Law and this code. Such advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the board of ethics may prescribe.
- B) The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the town employee or Board member be disclosed except to authorized persons and agencies.
- C) The Board of Ethics shall have subpoena powers and may solicit the advice of legal counsel employed by the Board of Ethics, or if none, the Town's legal counsel.
- D) In addition, the board of ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto, upon the request of the Town Board.

§ 20-21. Posting and distribution.

- A) The Town Clerk 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 municipality'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 Town Clerk 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 Wappinger.
- 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.

§ 20-22. Promulgation of rules and regulations.

The 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.

§ 20-23. Use of Town Funds for Budgetary purposes.

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

§ 20-24. 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.

§ 20-25. Effective Date.

This Chapter shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.