

LOCAL LAW INTRO NO. 2018-4 OF THE YEAR 2018
A LOCAL LAW TO ADOPT THE TOWN OF CHEEKTOWAGA CODE OF ETHICS

Chapter 9 : Code of Ethics

§ 9-1 Title.

§ 9-2 Purpose and scope.

§ 9-3 Definitions.

§ 9-4 Conflicts of interest.

§ 9-5 Transactional disclosure and recusal.

§ 9-6 Annual disclosure.

§ 9-7 Penalties for offenses.

§ 9-8 Maintenance of disclosure statements.

§ 9-9 List of town officials; notice of filing requirements; verification of filing.

§ 9-10 Town of Cheektowaga Board of Ethics.

§ 9-11 Duty to report.

§ 9-12 When effective.

§ 9-1 Title.

This chapter shall be known as the "Town of Cheektowaga Code of Ethics," and shall be identified as Local Law No. 4 of the Year 2018, further designated as Chapter 18 of the Code of the Town of Cheektowaga.

§ 9-2 Purpose and scope.

- A. This code is adopted pursuant to Article 18 of the General Municipal Law and in recognition of the policy of the State of New York and the Town of Cheektowaga setting forth for the guidance of officers and employees the standards of conduct reasonably expected of them.
- B. This code is intended to afford town officers and employees guidance in conforming to ethical standards; to promote public confidence in the integrity of town government; to require public disclosure of financial interests that may influence or be perceived as influencing actions of town officers and employees; and to minimize unwarranted suspicion and to provide for the fair and effective administration of this code.

- C. This code shall be in addition to any other restriction, standard and/or provisions pertaining to the conduct of town officers and employees.

§ 9-3 Definitions.

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

AGENCY

Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town of Cheektowaga and shall include, but not be limited to, the Zoning Board of Appeals, Planning Board, Public Library Board, Traffic Safety Commission, Board of Ethics, and any government review or advisory board appointed by the Town Board.

APPEAR and APPEAR BEFORE

Communicating in whatever form, whether personally or through another person.

BUSINESS DEALING

Having or providing any contract, service or work with a municipality; buying, selling, renting, leasing or otherwise acquiring from or dispensing to a municipality any goods, services or property; or applying for, petitioning, requesting or obtaining any approval, grant, loan, license, permit or other privilege from the municipality.

INTEREST

Having a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the Town of Cheektowaga. For the purposes of this code a municipal officer or employee shall be deemed to have an interest in the contract of (a) their spouse, minor children and dependents, except a contract of employment with the Town of Cheektowaga, (b) a firm, partnership or association of which such officer or employee is a member or employee, (c) a corporation of which such officer or employee is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

DISCRETIONARY ACT

Any action involving the exercise of judgment or discretion by a municipal officer or employee, either individually or as a member of any agency, and includes, but is not limited to, negotiation, approval, denial, advice, recommendation, authorization or audit.

FAMILY MEMBER

A spouse, child, stepchild, brother, sister, parent or dependent of a municipal officer or employee.

GOVERNING BODY

The Town Board of the Town of Cheektowaga.

MINISTERIAL ACT

An administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

PAID TOWN OFFICER, EMPLOYEE OR OFFICIAL

Any town officer, employee or official who receives a salary from the Town or who is compensated by the Town on a per diem or hourly basis, but does not include a town officer, employee or official who is solely reimbursed by the Town for expenses incurred in the course of his or her duties.

PARTICULAR MATTER

Any business dealing with the Town, or any application therefore, or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a town officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances or regulations of general application.

PERSON

An individual, corporation, partnership, unincorporated association and all other entities.

SPOUSE

A husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (a) a judicial order, decree or judgment, or (b) a legally binding separation agreement.

TOWN

The Town of Cheektowaga including all agencies, officers, employees and officials thereof.

TOWN CLERK

The duly elected Town Clerk of the Town of Cheektowaga.

TOWN OFFICER OR EMPLOYEE

Heads (other than elected officials) of any department, board, division or bureau and their deputies, assistants and the officers and employees who hold policy-making positions, as such shall be annually determined by the Cheektowaga Town Board as set forth in a written instrument and filed with the Cheektowaga Town Clerk. This section shall not include the Justices of the Cheektowaga Town Justice Court or officers and employees of the unified court system. Volunteer firemen and civil defense volunteers shall not be deemed to be "town officers or employees."

TOWN OFFICIAL

Any town officer or employee who has the authority either alone or as a member of an agency to perform discretionary acts on behalf of the Town with respect to any business dealing. "Town official" shall not include Town Justice and any town officer or employee who performs only ministerial acts and duties.

§ 9-4 Conflicts of interest.

A. No town officer or employee shall:

- (1) Act as attorney, agent, broker, employee, consultant or representative of or for any person in connection with any business dealing that person has with the Town.
- (2) Directly or indirectly solicit any gift or accept or receive any gift or series of gifts having a value not in conformance with the amount permitted by New York State General Municipal Law § 805-A, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part. The foregoing limitation shall not apply to campaign contributions not otherwise prohibited by law.
- (3) Take or refrain from taking any action or agree to take or refrain from taking any action or induce or attempt to induce any other town officer or employee to take or refrain from taking any action on any matter before the Town in order to obtain a pecuniary or material benefit for:
 - (a) Himself or herself;
 - (b) A family member;
 - (c) Any partnership or unincorporated association of which the Town officer or employee is a member or employee or in which he or she has a proprietary interest;
 - (d) Any corporation of which the Town officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock;
 - (e) Any person with whom the Town officer or employee or his or her family member has an employment, professional, business or financial relationship; or
 - (f) Any person from whom the Town officer or employee or his or her spouse has received, within any twelve-month period during the previous 24 months, a pecuniary or material benefit having an aggregate value greater than \$1,000, unless said individuals make up less than 5% of a class of individuals benefited.
- (4) Appear before the agency serviced by or which employs such town officer or employee except on behalf of the Town or on his or her own behalf.
- (5) Appear before the Town except on behalf of the Town or on his or her own behalf. This subsection shall only apply to officers and employees who are elected or who are paid by the Town.

- (6) Appear as attorney or counsel against any interest of the Town in any matter in which the Town is a party or a complainant.
 - (7) Solicit any nonelected officer or employee of the Town to participate in an election campaign. This subsection shall not prohibit an elected officer from soliciting such participation from officers and employees who are appointed by, and directly subordinate to, such elected officer and whose service in positions which are in the exempt classification or the unclassified service under the Civil Service Law.
 - (8) Directly or through a person, campaign committee or other organization authorized to act on his or her behalf solicit any nonelected town officer or employee of the Town to pay or promise to pay any assessment, subscription or contribution to a political party, political party organization or election campaign. This subsection shall not prohibit a general solicitation of a class of person.
 - (9) Directly or through a person or campaign committee or other organization authorized to act on his or her behalf solicit participation in an election campaign or payment or promise of payment of any assessment, subscription or contribution to a political party, political party organization or election campaign from any person who, to the knowledge of the Town officer or employee, has or within the previous 12 months has had any business dealing with the Town. This subsection shall not prohibit a general solicitation of a class of persons.
 - (10) Except where such disclosure is authorized by law, disclose any confidential information acquired in the course of his or her official duties or use any such information to advance the financial or other private interest of himself or herself or any other person.
 - (11) After termination of his or her term of office or employment with the Town, appear before the Town or receive compensation for any services rendered on behalf of any person other than the Town in relation to any particular matter upon which he or she took any discretionary act during his or her term of office of employment with the Town.
- B. No partnership or unincorporated association of which a town official is a member or employee or in which he or she has a proprietary interest, nor any corporation of which he or she is an officer or director or legally or beneficially owns or controls more than 5% of the outstanding stock shall appear before the agency served by such town official on behalf of any person other than the Town or itself.
- C. No partnership or unincorporated association of which a town official who is elected or paid by the Town is a member or employee or in which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock shall appear before the Town on behalf of any person other than the Town or itself.
- D. Nothing in this section shall be construed to prohibit a town officer or employee or any other person from receiving a municipal service or benefit or using a municipal facility which is generally available to residents or a class of residents in the Town.

- E. Nothing in this section shall be construed to prohibit any town officer or employee listed in § 11 of the Domestic Relations Law from accepting any gift or benefit having a value as permitted by New York State General Municipal Law § 805-B for the solemnization of a marriage by that Town officer or employee at a place other than the Town officer's or employee's normal place of business or at a time other than the officer's or employee's normal hours of business and except as may be otherwise restricted by law.
- F. Nothing in this section shall be construed to prohibit a town officer or employee from performing any ministerial act.
- G. A person who knowingly violates any provision of this section may, in addition to any penalty contained in any other provisions of law, be dismissed, suspended or removed from office or employment in the manner provided by law.

§ 9-5 Transactional disclosure and recusal.

- A. Whenever a town officer or employee is requested or required to take any action on a matter before the Town and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the Town officer or employee shall not participate in that matter unless the Town officer's or employee's recusal prohibits town action; then said town officer or employee shall participate after full disclosure. Additionally, the Town officer or employee, prior to any final action being taken, shall file promptly with his or her immediate superior, if any, and with the Town Clerk a signed statement disclosing the nature and extent of that interest.
- B. For purposes of this section, "related person" means:
 - (1) A family member, including but not limited to, and individuals spouse, child, step child, stepparent or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.
 - (2) Any corporation of which the Town officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock.
 - (3) Any person with whom the Town officer or employee or his or her family member has an employment, business or financial relationship.
 - (4) Any person from whom the Town officer or employee or his or her spouse has received, within any twelve-month period during the previous 24 months, a pecuniary or material benefit having an aggregate value greater than \$1,000.
- C. Nothing in this section shall be construed to prohibit a town officer or employee from performing any ministerial act.

§ 9-6 Annual disclosure.

- A. All town officials who are elected and all members of the Zoning Board of Appeals, Planning Board, Public Library Board, Traffic Safety Commission, Board of Ethics, Board of Plumbing and Drainage Examiners, Environmental Advisory Committee, any government review or advisory board appointed by the Town Board, Accountant, Administrative Clerk-Personnel, Assessor, Assistant Chief of Police, Assistant Superintendent-Wastewater Pump Station, Assistant to Town Supervisor, Assistant Town Engineer, Automotive Mechanic Crew Chief, Bingo Inspectors, Candidates for Town Elected Office, Captain-Police Department, Members of Board of Assessment Review, Members of Board of Ethics, Members of Cheektowaga Conservation Advisory Council, Members of Cheektowaga Economic Development Corporation, Members of Emergency Medical Services Board, Members of Environmental Advisory Committee, Members of Planning Board, Members of Traffic Safety Commission, Members of Zoning Board of Appeals, Chief of Police, Clerk Stenographer-Council Office, Coordinator of Employee Relations, Council Members [formerly Councilmen], Deputy Superintendent of Highways, Deputy Town Attorney, Deputy Town Clerk-Tax Office, Director of Administration and Finance, Director of Community Development, Director of Information and Technology/Records Management, Director of Senior Services, Executive Director of Youth and Recreation Services, General Crew Chief, Lieutenant in Charge of Vice, Gambling and Narcotics/Police Department, Principal Personnel Clerk, Prosecuting Attorney, Secretary to Highway Superintendent, Secretary to Town Supervisor, Senior Public Safety Dispatcher, Superintendent of Highways, Superintendent/Wastewater Pump Station, Supervising Code Enforcement Officer, Town Supervisor, Town Attorney, Town Clerk, Town Engineer, Working Crew Chief and Working Crew Chief B shall file with the Town Clerk, who, for the purpose of this section, shall also be deemed the Secretary of the Board of Ethics as hereinafter set forth, a signed annual disclosure statement within 120 days of the effective date of this code; within 30 days of taking office; no later than April 30 of each year thereafter. Within 30 days of any change in the information contained in his or her most recently filed statement, the public official shall file a signed amendment to the statement indicating the change.
- B. Matters to be disclosed by all elected, paid or appointed town officials shall be in the following form:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE
TOWN OF CHEEKTOWAGA

For calendar year

1. Name:
Address:

2. a. Title of position:
b. Department, agency or other governmental agency or entity:

3. Address and SBL No. of all real property within the Town of Cheektowaga in which you or your spouse or other family member of your household has an ownership or other financial interest.

Address

S.B.L. Number

4. List the name and address of any partnership, unincorporated association or business of which you or your spouse is a member, officer or employee or in which you or your spouse has a proprietary interest, giving your position and/or your spouse's position, if any, with the partnership association or business.

Position

Organization

Address of Organization

5. List the name and address of any corporation or limited partnership of which you or your spouse is an officer, director or employee or of which you or your spouse legally or beneficially owns or controls more than 5% of the issued and outstanding stock or other ownership rights, listing your position and/or your spouse's position, if any, with the corporation or limited partnership.

Name of Corporation or Limited Partnership

Address

Position

6. State the self-employment and the general nature thereof from which you or your spouse has derived, during the previous calendar year, gross income in excess of \$2,000.00.

7. If you are unable after reasonable effort to obtain some or all of the information required herein, so state and give reasons therefor.

Signature of reporting individual

(month, day, year)

§ 9-7 Penalties for offenses.

- A. A reporting individual who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows or should have known to be false on such statement of financial disclosure filed pursuant to this section shall be assessed a civil penalty in an amount not to exceed \$10,000. Assessment of a civil penalty hereunder shall be made by the Town of Cheektowaga Board of Ethics.
- B. For a violation of this subsection the Town of Cheektowaga Board of Ethics may, in lieu of a civil penalty, refer a violation to the District Attorney, and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor.
- C. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law.
- D. The Town of Cheektowaga Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article III of the State Administrative Procedures Act, but such mechanisms may not be identical in terms or scope.
- E. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Town of Cheektowaga Board of Ethics, pursuant to Article 78 of the Civil Practice Law and Rules.

§ 9-8 Maintenance of disclosure statements.

Transitional disclosure statements and annual disclosure statements shall be a matter of public record and shall be filed and indexed with the Town Clerk. The Town Clerk shall retain such disclosure statements for a period of not less than seven years from the calendar year covered by the filing.

§ 9-9 List of town officials; notice of filing requirements; verification of filing.

- A. On or before the 1st day of April of each year the Town Clerk shall, after consultation with the Town Attorney, notify all persons required to file annual disclosures by forwarding to them an Annual Statement of Financial Disclosure.

- B. On or before the 15th day of May of each and every year the Board of Ethics shall ascertain and verify that every required individual has filed the required disclosure statement.
- C. Failure of the Town Clerk to notify any or all individuals required shall not relieve town officials of their duty to file the disclosure statements.

§ 9-10 Town of Cheektowaga Board of Ethics.

- A. A Board of Ethics is established and shall be known as the Town of Cheektowaga Board of Ethics.
- B. Members and terms.
 - (1) The Board of Ethics shall consist of five members who shall initially serve a one-to five-year term. Thereafter, members shall be appointed for a five-year term.
 - (2) If the Supervisor shall fail to appoint the members within 30 days after the establishment of the Board of Ethics or within 30 days after a vacancy occurs on the Board of Ethics, the Town Board shall appoint such member or members as the case may be. Only one member of the Board shall be an officer or employee of the Town of Cheektowaga.
 - (3) In the event that a vacancy occurs prior to the expiration of the five-year term, such vacancy shall be filled for the balance of such term in the same manner as members are appointed to full terms. All members shall reside within the Town of Cheektowaga.
 - (4) All members shall serve without compensation, except that any member who is a Town of Cheektowaga officer or employee shall be entitled to his usual compensation when attending upon the business of the Board during normal working hours.
- C. Political parties.
 - (1) No more than two members of the Board may be affiliated with the same political party. No member of the Board of Ethics may hold an officer's position in any political party, except such person may be a member of a county committee of a political party.
 - (2) For purposes of this section, "political party" shall mean any political party which appears on the ballot in the last biennial town election. The members shall elect a Chairman from among themselves and such other officers as may be deemed necessary from time to time.
- D. A Board of Ethics member may be removed by the Town Supervisor with the approving consent of not less than five members of the Town Board after a finding of substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of the office or violation of this act after written notice of the charges and an opportunity to reply.

- E. The Town Clerk shall be the Clerk of the Board of Ethics and all documents filed with the Town Clerk shall be deemed, for the purposes of this chapter, to be filed with the Board of Ethics.
- F. The Board of Ethics shall have all the powers and duties as prescribed by Article 18 of the General Municipal Law. The Board of Ethics may adopt and amend such rules or procedures as are appropriate.

§ 9-11 Duty to report.

Every town officer or employee shall report to the Erie County District Attorney or the Town Attorney any action which may reasonably be interpreted as an improper attempt to influence him in the conduct of his office.

§ 9-12 When effective.

This chapter shall take effect after mailing, filing and publication as required by law.