

**TOWN OF HOUNSFIELD
LOCAL LAW # ___ OF 2012
ETHICS LAW**

A local law repealing the _____ Code of Ethics and establishing a revised Code of Ethics applicable to the Town of Hounsfeld officials and employees.

Be it enacted by the: Town Board of the Town of Hounsfeld as follows:

Section 1: Purpose.

- A. The purpose of this law is to establish minimum standards of conduct to help ensure that the business of government is free from improper influence that may result in opportunities for private gain. The **Town of Hounsfeld** recognizes that public officials must exercise their official duties solely in the public interest, and must avoid even the appearance of conflict of interest. The standards and guidelines set forth in this law are intended to minimize unwarranted suspicion and to avoid potential conflicts of interest before they arise. Notwithstanding any specific omissions in this law, it is the responsibility of public officials to come forth with information regarding personal involvement in matters before the Town and to avoid associations or actions that may interfere with the proper discharge of their public duties.
- B. The rules of ethical conduct of this local law shall not conflict with but shall be in addition to those of Article 18 of the General Municipal Law and any other general or specific law relating to ethical conduct and interest in contracts of municipal officers and employees. However, to the extent the provisions of this local law conflict with the provisions of the General Municipal Law regarding the filing of disclosure statements and the materials to be disclosed, it is intended that the provisions of this Local Law shall supersede the analogous provisions of the General Municipal Law. It is further intended that this law shall bring the **Town of Hounsfeld** into compliance with all requirements of General Municipal Law as enacted and as may be amended from time to time.

Section 2: Applicability.

- A. Unless otherwise specified, this law shall apply to all elected and appointed persons (hereinafter referred to as "Public Officers") including, but not limited to, the Town Supervisor, all members of the Town Board, each Town Justice, the Town Attorney, all members of the Planning Board, all members of the Zoning Board of Appeals, all members of any advisory board, and any committees and/or subcommittees thereof; the Town Clerk; Tax Collector; the Highway Superintendent, the Town Engineer, the Town Planner, and the Zoning Officer/Building Inspector. This law shall also apply to all other persons either employed by or who receive compensation from the Town (hereinafter referred to as Employees).
- B. For purposes of this law, "family" shall include a person's spouse or equivalent member

of a household sharing living expenses, and any of the following: child, step-child, brother, sister, parent, dependent.

- C. "Interest" shall mean a pecuniary or material benefit accruing to a public officer or employee or family member thereof.
- D. Nothing herein shall prohibit parties identified herein from engaging in the type of transaction when the prices used are for the fair market values of the property or services being transferred in the transaction.

Section 3: Gifts.

- A. Public officers, employees, their spouse/equivalents, or any person or entity acting on their behalf may not solicit or accept monetary gifts of service, entertainment, goods or promise thereof, from any person or agent of a person, corporation, partnership, unincorporated association or other entity who the public or employee knows or is considering or has had, within the pervious 12 months, any business dealing with the **Town of Hounsfield** that involves any discretionary act by the public officers or employee.
- B. Refreshments or meals that are provided as part of an informational presentation in a group setting, as part of a reception, or by an agency or educational institution sponsored seminar class or training session, or gifts given to the **Town of Hounsfield** for the benefit of the Town shall not be considered gifts under this section.
- C. Penalties:
 - 1. Any public officer or employee as listed above is found to be guilty of any part of this section; they will be subject to penalties as described in section 14, penalties.

Section 4: Conflict of Interest

No public officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in conflict with, or might reasonably tend to conflict with, the proper discharge of his/her duties.

Any Town Board Member, Town Officer, Town employee or Town Consultant who has any financial interest, direct or indirect, in any contract with the Town, or in the sale of any land, material, supplies or services to the Town or in any contractor supplying the Town, shall make the interest known, in writing, to the Town Board and the Board of Ethics no later than April 30 of each year. Any unknown interest shall be disclosed immediately upon becoming aware of the interest.

Additionally, public officers and employees shall disclose any interest in any corporation, business or other entity making any application to the Town Board or other Town department, on

a form as may be provided by the Town Clerk.

If any conflict occurs, the public officer or employee shall make known to all concerned parties the nature of such conflict and shall refrain from any participation whatsoever in the matter so as to avoid the conflict. In all cases of potential conflict, the Town Supervisor and all Council persons shall be made aware, in writing, of the situation by the person in conflict and any concerned parties, including the Town Board of Ethics.

No public officer or employee shall represent private interests before any agency, department, officer or other entity of the **Town of Hounsfield** Government to which he/she is a member, by which he/she is employed or to which he/she rendered services.

Furthermore, no public officer or employee or member of any Board serving the **Town of Hounsfield** shall:

- A. Appear as attorney or counsel or representative against the interests of the Town in any matter in which the Town is a party or complainant, without the written consent of the Town Board;
- B. Solicit any non-elected official or employee of the Town to pay, or promise to pay, any assessment, subscription, or contribution to a political party organization, or election campaign;
- C. 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 he public officer or employee, has or within the previous 12 months has had, any business dealing with the Town;

Section 5: Disclosure of Confidential Information.

No public officer or employee, whether paid or unpaid, shall discuss any confidential information acquired by him/her in the course of his/her official duties, nor use such information to advance his/her financial or other private interests or those of any other persons, including his/her family.

No public officer or employee shall discuss any **Town of Hounsfield** executive session information in a venue inappropriate to such discussions e.g.; bars, restaurants or public gatherings not sponsored by the Town.

Public officers and others attending Executive Sessions of the Town must refrain from discussing any information regarding Executive Sessions with anyone not approved by the Town Board of the **Town of Hounsfield**.

Violations of any part of this section will be referred to the Ethics Board for investigation and recommendations as listed in section 14 of this law.

Section 6: Standards of Conduct

- A. No public officer or employee shall accept employment which will unduly influence or otherwise bias his/her independent judgment in the exercise of his/her official Town duties.
- B. No public officer or employee shall accept employment or engage in any business or professional activity which will require him/her to disclose confidential information gained by reason of official position or authority.
- C. No public officer or employee shall use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
- D. No public officer or employee acting as a representative of the **Town of Hounsfield** or any subdivision thereof shall engage in any transaction with any business entity in which he/she has a direct or indirect financial interest that might reasonable tend to conflict with the proper discharge of his/her official duties. Should any immediate family member hold any financial interest in any firm involved in such transaction that information shall be disclosed to the Board of Ethics before such transaction is initiated.
- E. No public officer or employee shall by his/her conduct give reasonable basis for the impression that another can improperly influence him/her or unduly enjoy his/her favor in the performance of his/her official duties or that he/she is affected by kinship, rank, position or influence of any party or person.
- F. Personal investments made by an immediate family member who, if made by one of the individuals noted above would create a conflict of interest, shall be made known to the Ethics Board.

Section 7: Recusal from voting or other discretionary act.

- A. Whenever a public officer or employee is called upon to vote on, advise on, or otherwise take discretionary action on a matter before the Town, and either the performance or nonperformance of such action would provide a monetary or material benefit to: him/herself; his/her family; persons, businesses, or other entities. The officer or employee shall immediately declare the nature of the conflict of interest, and shall refrain from taking any action or inaction that would affect the outcome of the matter. Such declaration shall be made a part of the public record concerning the matter.
- B. Interpretation. All instances involving the appropriateness of abstention from discussion and voting by a member of a board by virtue of conflict of interest may be referred to the Ethics Board, who will render an opinion on the existence of conflict of interest within 30 days. Such interpretive opinion may be requested by any member of the Board.
- C. Whenever any board member becomes aware of a possible conflict of interest involving

such board member or any other board member, he or she may raise the issue at the meeting and request the matter be referred to the Ethics Board hereafter created.

Section 8: Claims Against the Town

Nothing herein shall be deemed to bar the timely filing by a present or former public officer or employee of any claim, demand, or suit against the Town on behalf of him/herself or his/her family arising out of any personal injury or property damage or for any lawful benefit, or from receiving a municipal service or benefit that is generally available to the public.

Section 8: Establishment of a Local Ethics Board

- A. Pursuant to Article 18 of the General Municipal Law as amended, the **Town of Hounsfield** does hereby establish a local Ethics Board of 3 persons to review the conflict of interest disclosures and cause copies of the same to be filed with the appropriate governmental commissions or agencies; to review annually this Code of Ethics and recommend to the Town Board any changes which it deems appropriate; and to render advisory opinions on any matter of ethical conduct of Town officers and employees, on its own initiative or at the written request of any public officer, employee, or private citizen of the Town. The Ethics Board shall have power to conduct investigations, and to refer cases to the Town Board for consideration of whether to commence criminal prosecution or to commence suit in the Supreme Court of the State of New York on behalf of the Town for injunctive relief to enjoin a violation or compel compliance with this law. The Ethics Board may establish rules for its own operations, but whether included or not, the following procedures shall pertain to its activities:
1. The Ethics Board shall state in writing the disposition of every request for an opinion and every investigation it conducts, and the reasons for the disposition. All such statements and written requests shall be kept on file as public record.
 2. Any changes in this Local Law that are recommended by the Ethics Board shall, to the extent reasonably possible consistent with the other responsibilities of the Town Board, be discussed and acted upon by the Town Board in open session at a regular meeting within two months of the issuance of the recommendations. Any amendments to this law must be filed within 30 days with the appropriate governmental commission or agency.
 3. The Town Board may make available to the Ethics Board such meeting space, clerical support, and expense reimbursement as the Town Board, in its discretion and consistent with budgetary constraints, deems advisable.
 4. The Ethics Board may not conduct investigations of itself or any of its members. Complaints against any member of the Ethics Board shall be made to the appropriate governmental commission or agency.

B. Appointment and removal.

1. Members of the Ethics Board shall be appointed by the Town Board of the **Town of Hounsfield** and may be nominated by any member of the public.
3. Ethics board members may be removed by the Town Board for reasons of gross misconduct, substantial neglect of duty, or inability to perform the duties of office, or upon recommendation by the appropriate governmental commission or agency.

C. Terms of Office:

1. All members of the Board of Ethics shall reside within the Town.
2. Each member of the Board of Ethics shall serve of term of 5 years.
3. Each appointment shall be by majority vote of the Town Board.
4. One member of the Board of Ethics shall be an elected official in and for the Town.

D. Qualifications:

1. No Ethics Board Member shall hold office in any political party.
2. From the period of 12 months prior to appointment throughout his/her term of office, no Ethics Board Member shall be a party to any proceeding before the **Town of Hounsfield** or have business dealings with the **Town of Hounsfield** other than normal, routine, ministerial requests such as applications for building permits, certificates of occupancy, marriage licenses, or similar ministerial matters.
3. Members of the Ethics Board shall be subject to the provisions of this law.
4. No Board member shall be employed as a lobbyist. A member may contribute money to, but not otherwise participate in any Town election campaign, except for the member of the Ethics Board who is or may be himself/herself an elected officer.
5. The members of the Board of Ethics shall not receive compensation for the performance of their official duties but shall be reimbursed for reasonable and necessary expenses, providing said expenses receive prior written approval from the Town Board, or from the Town Supervisor who has been delegated administrative authority by the Town Board.

Section 10: Town Board of Ethics Meetings and Quorum.

At its first meeting each year, the Board of Ethics shall elect a chairman from among its membership. Three members of the Board shall constitute a quorum. A vote of at least three members shall be required for the Board to take any action.

The Chairman or any 3 members may call a meeting of the Board of Ethics at any other time when needed.

Section 11: Powers and Duties of the Board of Ethics.

The Board of Ethics shall have the following powers:

- A. To prescribe and promulgate rules and regulations governing its own organization and procedures in a manner consistent with this Code.
- B. To cause to be filed with the State Ethics Commission a copy of the form for any disclosure statements required to be filed in section 3 of this Code.
- C. To conduct investigations of alleged violations of Sections 3, 4, 5 and 6 of this Code.
- D. To conduct hearings, recommend disciplinary action, or penalties, and initiate appropriate actions and proceedings pursuant to Section 12 of this Code.
- E. To issue advisory opinions pursuant to Sections 3, 4, 5 and 6 of this Code.
- F. To provide training and education to public officers and employees on the provisions of this Code of Ethics.
- G. To prepare an annual report to the Town Board, summarizing the activities of the Board of Ethics and recommend changes to the Code, as necessary.
- H. The Board of Ethics may refer any matter within its jurisdiction to the County or State Board of Ethics.
- I. To grant a waiver in those situations if the Board of Ethics believes the exception would serve the public interest upon a unanimous vote of the Board of Ethics. Waivers shall be in writing and state the grounds in which they are granted.

Section 12: Filing a Complaint.

Any person may file a sworn complaint alleging a violation of this code by writing to the Town Ethics Board c/o Town Hall or by requesting through the Town Clerk's Office to meet with the Ethics Board at one of its meetings.

Section 13: Investigation of Alleged Violations.

- A. Upon receipt of a sworn complaint by any person alleging any violation of this act, or of any local ethics law, or upon determining on its own initiative that a violation of this act or of any local ethics law may exist, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provisions of this act. The Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.
- B. The accused shall be notified in writing regarding the complaint and shall have the right to appear before the Board of Ethics to explain or define his/her position regarding the complaint.
- C. The accused shall be notified in writing regarding the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. Upon the final disposition of a complaint, all such decisions shall be public records and shall be indexed and maintained on file by the Board of Ethics. Prior to final disposition, all complaints and statements shall remain confidential. Any other evidence submitted either in support of or contrary to such complaint shall remain confidential. Prior to releasing any decision as a public records, any party named in a decision shall have thirty (30) days in which to petition a court of competent jurisdiction for sealing of same.
- D. Upon receipt of a complaint alleging a violation of this local law by an individual that is a member of an association or society that maintains a grievance committee and has a grievance procedure in effect, the Board of Ethics shall forward the said complaint to the said grievance committee for an advisory opinion of any violation of the association or society code of ethics. Upon receipt of the advisory opinion, the Board of Ethics shall adopt, reject or adopt in part the advisory opinion of the association or society and shall thereafter render its own decision.
- E. All decisions of the Board of Ethics shall be reviewable by filing of a petition pursuant to Article 78 of the New York State Civil Practice Laws and Rules in the Supreme Court of the State of New York, within the time limits set forth in said Laws and Rules.

Section 14: Recommendations of Disciplinary Actions Disciplinary Action

In its discretion, and after a hearing, the Board of Ethics may recommend appropriate disciplinary action for any violation of this law; to the Town Board or any other person or body authorized by law to impose such sanctions. That disciplinary recommendation may include one or more, or some combination thereof, of the possible penalties listed below. The Board of Ethics shall conduct and complete the hearing with reasonable promptness, unless in its discretion, the Board of Ethics refers the matter to another authority authorized by law to impose disciplinary actions,

or to the appropriate prosecutor.

- A. Any Town officer or employee who engages in any action that violates any provision of this Local Law may be warned or reprimanded or be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, or other authorized sanction may be imposed in addition to any other penalty contained in this Local Law or in any other provision of law.
- B. Censure - Official or public disapproval of the conduct at issue by Town Resolution.
- C. If the offender is an Elected Official or Employee of the **Town of Hounsfield**, that person may be fined. If a fine is recommended, that fine shall be a minimum of 1/52 of their annual salary or to the total amount of financial benefit incurred.
- D. If the offender is a paid employee of the **Town of Hounsfield** covered by a Union contract, that offender may be fined as indicated above, unless otherwise defined by such contract.
- E. If the offender is an appointed member of any committee, they may be removed from that committee and permanently barred from any future appointments in the **Town of Hounsfield**.

Section 15: Advisory Opinions.

- A. Upon written request of any board, department, or individual public officer, employee or any applicant, the Ethics Board may render written advisory opinions with respect to the interpretation or application of any provision of this Code.
- B. Opinions and requests for opinion shall be public records and shall be indexed and maintained on file in an appropriate manner by the Town Ethics Board along with all other Ethics Board records in the office of the Town Clerk.

Section 16: Distribution of Code of Ethics.

- A. Within ten (10) days of this law's enactment, the Town Clerk shall post a copy of this law conspicuously and permanently in the Town Hall in a manner allowing public perusal of its provisions. Copies of the law shall also be made available by the Town Clerk to members of the public upon request under provisions of the Freedom of Information Law, at a charge of \$.25 per page.
- B. Within thirty (30) days of this law's enactment, the Town Clerk shall distribute a copy of this law to all public officers and employees identified in Section 2. Each public officer and employee elected or appointed thereafter shall be given a copy of this law before entering upon the duties of his/her office, and shall execute an acknowledgment of receipt

of the same.

- C. The Town Clerk shall distribute copies of this law to the members of the Ethics Board upon their taking office.

Section 17: Invalidity of Portion of the Law.

If any provision of this law is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this law.

Section 18: Effective Date.

This law shall take effect immediately after is has been filed with all appropriate State Departments or agencies, as may be required by law.

Motion By: _____

Seconded By: _____

Motion Carried.

Voting Record:

Dated: March ____, 2012

Diane Nier, Town Clerk
Town of Hounsfield, New York