

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2017**

**A LOCAL LAW AMENDING CHAPTER 16A OF THE
TOWN CODE ENTITLED “ETHICS, CODE OF”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

It is a priority of Town government to strengthen the integrity of Town operations and avoid the possibility of self-interest in Town dealings. In order to accomplish these goals, the Town established an Ethics Working Group to review the Town’s Code of Ethics and propose amendments to the Town Board. The Town Board has received the report of the Ethics Working Group and has determined that the amendments proposed by the Ethics Working Group will provide clear, comprehensive and salutary regulations concerning conflicts of interest, interests in contracts, gifts, disclosure, recusal, use of Town resources, private employment and the composition of the Town’s Board of Ethics.

Section 2.

Section 16A-2 of Chapter 16A of the Town Code is hereby amended as follows:

A. No officer or employee of the Town of North Hempstead, whether paid or unpaid, shall:

- (1) ~~Be or become interested~~ **Have or acquire an interest**, directly or indirectly, in any manner whatsoever, except by operation of law, in any business or professional dealings with the Town of North Hempstead or any agency thereof.
- (2) Act as attorney, agent, broker, representative or employee in business or professional dealings with the Town of North Hempstead or any agency thereof for any person, firm or corporation, directly or indirectly, in any manner whatsoever, **except when acting as a duly-authorized labor representative in matters involving collective bargaining**.
- (3) Accept other employment or engage in any business transactions or make any investments, directly or indirectly, which create a conflict with his **or her** official duties.
- (4) **As used in this Section 16A-2, the term “interest” means either a direct or indirect financial or material benefit.**

B. ~~Notwithstanding the provisions hereinbefore set forth, any persons serving the Town of North Hempstead or any agency thereof without compensation shall not be deemed in violation of Subsection A above by reason of financial, professional or business interests unless such interests are in conflict with the proper discharge of his official duties.~~ **A**

Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal benefit, financial or otherwise, directly or indirectly, for any of the following persons:

- (1) Himself or herself;**
 - (2) A Relative as defined in this Chapter or member of his or her household;**
 - (3) A non-governmental organization in which he or she has a financial interest;**
 - (4) A client or customer of the officer or employee; or**
 - (5) A person from whom the officer or employee has received a private loan or loans, or a gift or gifts, having an aggregate value of seventy-five dollars (\$75.00) or more in the previous twelve (12) months.**
- C. A Town officer or employee shall not appear before the Town Board or any department or agency of the Town, except on his or her own behalf, on behalf of his of her own constituents or on behalf of the Town.**
- D. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of Chapter 16A of the Town Code.**
- E. A Town officer or employee shall not induce or aid another officer or employee of the Town to violate any of the provisions of this Code of Ethics.**
- F. Prohibited Interests in Contracts.**
- (1) No Town officer or employee shall have an interest in any contract with the Town, when such officer or employee, individually or as a member of a board or commission, has the power or duty, whether or not exercised, to:**
 - (a) Negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder**
 - (b) Audit bills or claims under the contract, or**
 - (c) Appoint an officer or employee who has any of the foregoing powers or duties**
 - (2) For the purposes of this subsection (F), the term “contract” means any claim, account or demand against or agreement with the Town, written or oral, express or implied.**

- (3) Notwithstanding the foregoing, for the purposes of this subsection (F), the term “contract” shall not include**
- (a) The designation of a bank or trust company as a depository, paying agent, registration agent for the investment of Town funds except when the Supervisor, Comptroller or his or her deputy or employee has an interest in the bank or trust company; provided, however, that where designation of a bank or trust company outside the Town would be required because of the foregoing restriction, a bank or trust company within the Town may nevertheless be so designated;**
 - (b) A contract with a person, firm, corporation or association in which the Town officer or employee has an interest which is prohibited solely by reason of his or her status as an officer or employee of the firm, corporation or association, if the compensation from such employment will not be directly affected as a result of the contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of the contract;**
 - (c) The designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law;**
 - (d) The purchase by the Town of real property or an interest therein, provided the purchase and the consideration therefor is approved by order of the supreme court upon petition of the Town Board;**
 - (e) The acquisition of real property or an interest therein, through condemnation proceedings in accordance with law;**
 - (f) The sale of bonds and notes pursuant to the New York Local Finance Law;**
 - (g) A contract in which a Town officer or employee has an interest if such contract was entered into prior to the time he or she was elected or appointed as an officer or employee, but this paragraph shall in no event authorize a renewal of any such contract;**
 - (h) A contract with a corporation in which a Town officer or employee has an interest by reason of stockholdings when less than five percent (5%) of the stock of the corporation is owned or controlled directly or indirectly by such officer or employee;**
 - (i) A contract for the furnishing of public utility services at rates or charges that are fixed or regulated by the public service commission;**

- (j) A contract for the payment of a reasonable rental of a room or rooms owned or leased by a Town officer or employee, used in the performance of his or her official duties, and designated as an office or chamber;
- (k) A contract for the payment of a portion of the compensation of a private employee of an officer when such employee performs part time services in the official duties of the office;
- (l) A contract in which a Town officer or employee has an interest if the total consideration payable thereunder, when added to the aggregate amount of all consideration payable under contracts in which the person has an interest during the fiscal year, does not exceed seven hundred fifty dollars;
- (m) A contract with a member of a private industry council established in accordance with the federal job training partnership act or any firm, corporation or association in which such member holds an interest, provided the member discloses such interest to the council and the member does not vote on the contract.

G. Recusal.

- (1) A Town officer or employee shall promptly recuse himself or herself from any involvement in a matter before the Town when acting on the matter, or failing to act on the matter, may benefit any of the persons listed in Subsection B of this section or may be prohibited by Subsections A or D of this section.
- (2) Whenever a Town officer or employee is required to recuse himself or herself under this Code of Ethics, he or she:
 - (a) Shall promptly inform his or her supervisor, if any, in writing;
 - (b) Shall promptly file with the Town Clerk and Board of Ethics a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board; and
 - (c) Shall immediately refrain from participating further in the matter.
- (3) Except where otherwise required by law, whenever a vote is required from which a Town officer or employee must recuse himself or herself, the Town officer or employee's vote shall not be counted for the purpose of determining whether a majority or other ratio required by statute, local law,

ordinance or resolution to pass a measure has been reached; provided, however, that no action may be taken by a body unless a majority of all of the members appointed or elected to such body, vote favorably. If a body is reduced below such majority by reason of a recusal required pursuant to this section, thereby causing an inability to act, the application shall be deemed denied.

H. The provisions of this Section 16A-2 shall not prohibit an officer or employee from engaging in conduct or possessing any interest, or require recusal as a result of such conduct or interest, if the conduct or interest relates to:

- (1) An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States.
- (2) A ministerial act.
- (3) Receipt of a non-monetary award or awards from charitable organizations.
- (4) Receipt of Town services or benefits, or use of Town facilities that are generally available on the same terms and conditions to all or substantially all Town officers and employees, residents or a class of residents in the Town and/or the general public.
- (5) Representation of constituents by elected officials without compensation in matters of public advocacy.
- (6) The adoption of the Town Budget.
- (7) The appearance by a Town employee before a Town department, agency, board or commission in a representative capacity on behalf of an employee organization where such appearance is duly authorized by the employee organization.

I. Notwithstanding the provisions hereinbefore set forth, any persons serving the Town of North Hempstead or any agency thereof without compensation shall not be deemed in violation of Subsection A, B, D or F above by reason of financial, professional or business interests unless such interests are in conflict with the proper discharge of his or her official duties.

Section 3.

Section 16A-3 of Chapter 16A of the Town Code is hereby amended as follows:

A. No officer or employee of the Town of North Hempstead, whether paid or unpaid, shall accept any valuable gift from any person, firm or corporation which, to his knowledge, is interested, directly or indirectly, in any manner whatsoever in

business or professional dealings with the Town of North Hempstead or any agency thereof:

(1) a gift having a value of seventy-five dollars (\$75.00) or more (or gifts from a single source aggregating to seventy-five dollars (\$75.00) or more from any source over a calendar year), whether in the form of services, loan(s), object(s) or promise(s) or any other form, from any person, firm or corporation which, to his knowledge, is interested, directly or indirectly, in any manner whatsoever in business or professional dealings with the Town of North Hempstead or any agency thereof; or

(2) A gift in any amount of cash or cash equivalents.

B. This Section 16A-3 shall not prohibit any gift or gifts:

(1) Received by the Town officer or employee from a Relative; or

(2) Accepted on behalf of the Town or transferred to the Town; or

(3) Motivated by a pre-existing personal relationship; or

(4) Given on non-recurring special occasions, such as marriage, illness, or retirement, which are reasonable and customary; or

(5) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars; or

(6) Incidental meals and refreshments provided when a Town officer or employee is a speaker or participant at a job-related professional, charitable, educational, or community conference, program or event; or

(7) Awards and plaques which are publicly presented in recognition of service as a Town officer or employee, or other service to the community.

Section 4.

Section 16A-4 of Chapter 16A of the Town Code is hereby renamed "Use of Town Resources" and shall be amended as follows:

A. ~~Any officer or employee of the Town of North Hempstead, whether paid or unpaid, who has a direct or indirect financial or other private interest in any matter being considered by the Town Board of the Town of North Hempstead or by any other official or agency, officer or employee of said town and who participates in discussions before or gives opinions to such Board, agency or individuals shall publicly disclose on the official record the nature and extent of such interest.~~

- B. Any officer or employee of the Town of North Hempstead, whether paid or unpaid, who has knowledge of any matter being considered by any board, agency, officer or employee of said town in which he has any direct or indirect financial or other private interest shall be required to disclose, in writing, his interest to such board, agency, officer or employee and the nature and extent thereof.
- C. A copy of every disclosure required under Subsections A and B above, including a copy of any transcript of such disclosure, shall be promptly transmitted by the board, agency, officer or employee receiving such disclosure to the Town Clerk, who shall file and maintain the same as a public record
- A. As used in this Section 16A-4, the term “Town resources” shall include, but is not limited to, Town personnel, compensated time, money, vehicles, equipment, letterhead, materials, supplies or other property.**
- B. Town resources shall be used only for lawful Town purposes.**
- C. No Town officer or employee shall use or permit the use of Town resources for personal or private purposes; provided, however, that this provision shall not be construed as prohibiting:**
- (1) Any use of Town resources authorized by law, Town policy or collective bargaining agreement to which the Town is a party;**
 - (2) The use of Town resources for personal or private purposes when provided to a Town officer or employee as part of his or her compensation; or**
 - (3) The occasional and incidental use of Town telephones or computers for personal, non-business matters.**

Section 5.

Section 16A-6 of Chapter 16A of the Town Code is hereby renamed “Employment” and shall be amended as follows:

A. **Future Employment**

- (1)** No person who has served as an officer or employee of the Town of North Hempstead shall:
 - (1)(a)** Within a period of two years after the termination of such service or employment, appear before any board or agency of the Town of North Hempstead; or

~~(2)~~**(b)** Receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application:

~~(a)~~**(i)** With respect to which such person was directly concerned as a town officer or employee; or

~~(b)~~**(ii)** In which he **or she** personally participated during the period of his town service or employment; or

~~(c)~~**(iii)** Which was under his **or her** active consideration as a town officer or employee.

~~B.~~ **(2)** The preceding subsection shall not prevent the town itself from retaining the services, in accordance with General Municipal Law § 104-b **and the Town's Procurement Policy**, of a former town officer or employee or of a firm or corporation in which such former town officer or employee is currently employed.

B. Private Employment in Conflict with Official Duties

(1) No elected Town official or Town employee serving as staff to a Town Board member shall receive or agree to receive, directly or indirectly, any compensation for consulting or advisory services in connection with any proposed local law, resolution ordinance or other official action of the Town Board.

(2) No Town officer or employee shall ask for, pursue or accept a private employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board or commission, while the matter is pending or within the one (1) year following final disposition of the matter.

(3) No Town officer or employee, during his or her tenure as a Town officer or employee, shall engage in any other employment, or engage in any business, commercial, or professional activity, when the other employment or business, commercial or professional activity:

(a) Involves duties that are incompatible with those of the official duties of the Town officer or employee;

(b) May be reasonably expected to require frequent and inevitable recusal;

- (c) May be reasonably expected to require the use of confidential information gained by reason of serving as a Town officer or employee;
- (d) Will result in the officer or employee receiving compensation for services to be rendered in connection with any matter before any Town department, agency, board or commission of which he or she is an officer, member or employee or of any Town department, agency, board or commission over which he or she has jurisdiction or to which he or her has the power to appoint any member, officer or employee;
- (e) Is pursuant to an agreement with the officer or employee, express or implied, for the officer or employee to receive compensation for services to be rendered in connection with any matter before any Town department, agency, board or commission of which he or she is an officer, member or employee or of any Town department, agency, board or commission over which he or she has jurisdiction or to which he or her has the power to appoint any member, officer or employee;
- (f) Involves the representation of a person or organization other than the Town, or pursuant to which the officer or employee will receive, or enter into any agreement, express or implied, to receive compensation for services rendered in connection with any application, request, claim or proposal before any Town department, agency, board or commission, or any litigation, negotiation or matter requiring the exercise of discretion to which the Town is a party.

Section 6.

Subsection (I) of Section 16A-7 of Chapter 16A of the Town Code shall be amended as follows:

- I. Both Local ~~Political~~ ~~Party~~ ~~Officials~~ and any person required to file a financial disclosure statement who commences employment or takes a position as a Local Political Party Official after May 15th of any year shall file such statement within 30 days after commencing employment or of taking the position of political party official, as the case may be. By October 15th of each year, the Town's Director of Human Resources shall provide to the Board of Ethics and the Town Attorney a list of those employees who have commenced employment with the Town after May 15th of that year. If the list contains any employees required to file a financial disclosure statement pursuant to this Section 16A-7 and who have not yet filed a statement, the Board of Ethics shall require such employees to file a statement within thirty (30) days of a written notice to such employees by the Board. It shall only be a violation of this Section 16A-7 if an employee or political party official who commences employment or takes a position as a political party official after May 15th fails to file an financial disclosure statement on or before the thirtieth (30th) day after the Board's notice.

Section 7.

Subsection (G) of Section 16A-7 of Chapter 16A of the Town Code shall be amended as follows:

- G. The Board shall receive and review completed financial disclosure statements. **In the event that the Board determines, after its review of a completed financial disclosure statement, that any item disclosed in the financial disclosure statement presents a potential conflict of interest prohibited by Section 16A-2 of this Chapter, the Board shall commence an investigation to determine whether an actual conflict of interest prohibited by this Chapter exists, which investigation shall be conducted pursuant to procedures to be determined by the Board. If, after the completion of its investigation, the Board finds that an actual conflict of interest exists, the Board shall communicate the finding to the Town Supervisor, the Town Board and the Town Attorney within ten (10) days of the completion of the Board's investigation.**

Section 8.

Section 16A-9 of Chapter 16A of the Town Code is hereby amended as follows:

- A. The terms of the current members of the Board of Ethics as constituted on the effective date of Local Law No. -2017 shall continue, except that the term of the member of the Board of Ethics ending May 2, 2018 shall be extended to December 31, 2018 and the term of the member of the Board of Ethics ending May 8, 2018 shall be extended to December 31, 2018.**
- AB.** ~~The Board of Ethics of the Town of North Hempstead is hereby continued. If~~**The Board shall consist of ~~six~~ seven (7) members to be appointed by the Supervisor, subject to confirmation of the Town Board, after giving due consideration to the recommendation of the members of the Town Board.** ~~but subject to the confirmation of the Town Board. All members shall reside in the Town of North Hempstead and shall serve without compensation. No officer of a political party, including a committeeperson or any officer higher than a committeeperson, may be appointed as a member of the Board of Ethics.~~
- BC.** The term of office for each member shall be ~~six~~**four (4) years. There shall be no limits on the number of terms that any individual member may serve.** In the event of a vacancy due to ~~resignation~~**resignation** registration, death, illness or otherwise, a successor shall be appointed **pursuant to this Section 16A-9** for the unexpired balance of the term. ~~This appointment shall be made in the same manner as provided for in Subsection A above.~~
- CD.** The members of the Board of Ethics shall elect a Chairperson from their group.
- ~~**D.** The terms of the current members of the Board of Ethics as constituted on the effective date of this chapter shall continue. The term of one member of the Board shall continue to expire on an annual rotating basis.~~

Section 9.

The term of the member of the Board of Ethics added by Section 8 of this Local Law shall commence upon the member's appointment and confirmation by the Town Board and shall terminate December 31, 2020.

Section 10.

This Local Law shall take effect upon filing with the Secretary of State.