

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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**FILED
STATE RECORDS**

___ County ___ City X Town ___ Village of Cohocton

MAR 29 2019

Local Law No. 1 of the Year 2019

DEPARTMENT OF STATE

A local law to create the Town of Cohocton Ethics Law in compliance with Article 18 of the New York State General Municipal Law (the "Ethics Law").

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

WHEREAS, Article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest, and

WHEREAS, 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 for the guidance of its officers and employees standards of conduct reasonably expected of them, and

WHEREAS, Section 806 of the General Municipal Law also authorizes the governing body of any other municipality to adopt such a Code of Ethics, and

WHEREAS, a Code of Ethics adopted by the 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 advisable.

NOW, THEREFORE, be it resolved that the Town Board of the Town of Cohocton hereby adopts a Code of Ethics to read as follows:

Code of Ethics of the Town of Cohocton

Section 1. Purpose.

Officers and employees of the Town of Cohocton hold their positions to serve and benefit the public and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board recognizes there is need for a clear reasonable, and maximum standard. This Code of Ethics document establishes those standards.

Section 2. Definitions.

BOARD: Means the governing board of a municipality and any municipal administrative board (Planning Board, Zoning Board of Appeals) commission, or other agency or body composed of two or more municipal officers or employees.

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 household, is an owner, partner, member, director, officer, employee or directly owns or controls more than 5% of the organizations outstanding stock.

MUNICIPALITY: Means TOWN OF COHOCTON. The word municipal refers to the municipality.

MUNICIPAL OFFICER OR EMPLOYEE: A paid or unpaid officer or employee of the Town of Cohocton, including, but not limited to the member of any municipal board.

RELATIVE: Meaning a spouse, parent, step-parent, siblings, step-siblings, sibling's spouses, children, step-children, God children grandparents, grandchildren, uncles, aunts, nephews, nieces, first cousins, former spouses, domestic partner, any other living in household of a municipal officer or employee or individuals having any of these relationships to the spouse of the officer or employee.

APPLICABILITY: This Code of Ethics applies to the officers and employees of the Town of Cohocton and shall supersede any prior municipal Code of Ethics. The provision 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 General Municipal Law and rules, regulations, policies and procedures of the Town of Cohocton.

Section 3. 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 a private organization in which he or she is deemed to have an interest.

Section 4. 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 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 first acquires knowledge of the interest requiring disclosure whichever is first.

(c) In the case of a person serving in an elective office the disclosure shall be filed with the governing board of the municipality. In all other cases the disclosure shall be filed with the person's supervisor. If that person has no supervisor, the disclosure shall be filed with the municipal officer, employee, or board that has the power to appoint the persons position. In addition, in a case of a person serving on a municipal board a copy of the disclosure shall be filed with the board. Any disclosures made to a aboard shall be made public at a meeting of the board and must be included in the minutes of the meeting. Any violation of disclosure of employee shall be guilty of a misdemeanor.

Section 5. Recusal and abstention.

(a) On 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 municipal officer as a member of a board, then the power or duty shall be exercised by the other members of the board.
- (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 duty 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 supervisor shall designate another person to exercise or perform the power or duty.

(b) If you recuse yourself, you can have no participation in the matter at all.

Section 6. Prohibition inapplicable: disclosure, recusal and abstention not required.

This code's prohibition on use of a municipal position, disclosure requirements and requirements relating to recusal and abstention shall not apply with respect to the following matters:

- (a) Adoption of the municipality's annual budget.
- (b) Any matter requiring the exercise of discretion that directly affects any of the following groups:
 - All municipal officers or employees

- (c) Bonds or notes issued by the municipality and acquired more than the date on which the bonds or notes were originally issued.

Section 7. Private employment in conflict with official duties.

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:

- (a) Can be reasonably expected to require more than sporadic recusal and abstention pursuant to the recusal and abstention section of this ethics code;
- (b) Can be reasonably expected to require disclosure or use of confidential vital information gained by reason of serving as a municipal officer or employee.
- (c) Violates section 805 a(1)(c) or (d) of the General Municipal Law; or
- (d) Requires representation of a person or organization other than the municipality in connection with litigation, negotiation or any other matter to which the municipality is a party.

Section 8. 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 30 days following final disposition of the matter.

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

(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 transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

Section 9. Personal representations and claims permitted.

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

- (a) Representing himself or herself or his or her spouse or minor children before the municipality or;

- (b) Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

Section 10. Use of municipal resources.

(a) Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but not limited to: municipal personnel and municipal 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 or incidental use during the business day of municipal telephones and computers for necessary matters such as family care and changes in work schedule.

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

Section 11. Interest in contracts.

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

(b) Every municipal officer and employee shall disclose interest in contracts with the municipality at the time and in the manner required by Section 803 of the General Municipality Law.

Section 12. 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 decisions specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for, or within the municipality or municipal board.

(b) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

Section 13. Political solicitations.

(a) No municipal officer or employee shall directly or indirectly compel a subordinate municipal officer or employee to make, or promise to make, any political contribution whether by gift of money, service or other things 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 for any 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.

Section 14. 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 any such information unless the disclosure or use is required by law or while exercising or performing his or her official duties.

Section 15. Gifts.

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

(b) No 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 and No/100 Dollars (\$75.00) 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.
- (3) The gift is intended as a reward for any official action on the part of the officer or employee.

(d) For the purpose 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 interim. The fair market value of a ticket entitling the holder to food, refreshments, entertainment or any other benefit is the face 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) (1) 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.

(2) 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.

(f) This section does not prohibit any other gifts 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 \$75.00 or less which are publicly presented in recognition of services 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.

Section 16. Board of Ethics.

(a) There is hereby established a Board of Ethics for the municipality. The Board of Ethics shall consist of three members and one alternate, a majority of whom shall not be officers or employees of the municipality, but at least one whom must be a municipal officer or employee. The members of such Board of Ethics shall be appointed by the Town of Cohocton Board, serving a term not at the pleasure of the town board and receiving no salary or compensation for their services as members of the Board of Ethics.

(b) The Board of Ethics shall render advisory opinions to the officers and employees of the Town of Cohocton with respect to article 18 of the General Municipal Law and this code. Such

advisory opinions must be rendered pursuant to the written request of any such officers, employees or town residents, under such rules and regulations as the Board of Ethics may prescribe. The Board of Ethics shall have the advice of legal counsel employed by the board, or if none, the municipality's legal counsel. 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.

(c) The Board of Ethics may promulgate rules and regulations in furtherance of its powers and duties enumerated herein including but not limited to procedures for receipt and investigation of complaints, issuance of opinions and forms to be used.

Section 17. Posting and distribution.

(a) The Town of Cohocton Supervisor must promptly post a copy of this code and a copy of any amendment to this code publicly and conspicuously in each building under the municipality's control. The code must be posted within 10 (ten) days following the date on which the amendment takes effect.

(b) The Town Supervisor must promptly present a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer or employee of the Town of Cohocton.

(c) 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.

Section 18. 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.

Section 19. Repeal.

Local Law No. 1 of 2012 entitled "a local law to create the Town of Cohocton Ethics Law in compliance with Article 18 of the New York State General Municipal Law (the "Ethics Law"), is hereby repealed.

Section 21. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local annexed hereto, designated as Local Law No. 1 of 2019 of the Town of Cohocton, was duly passed by the Town Board on March 19, 2019, in accordance with the applicable provisions of law. *(Name of Legislative Body)*

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local annexed hereto, designated as local law No. _____ of 20____ of the (County)(City) (Town)(Village) of _____ was duly passed by the _____ on _____, 20____, and *(Name of Legislative Body)* was (approved)(not approved)(repassed after disapproval) by the _____, and was deemed *(Elective Chief Executive Officer*)* duly adopted on _____, 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local annexed hereto, designated as local law No. ____ of ____ of the Town of Cohocton was duly passed by the _____ on _____, and was approved by the _____, *(Name of Legislative Body)* *(Elective Chief Executive Officer*)* on _____. Such local law was submitted to the people by reason of a mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general election held on _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local annexed hereto, designated as local law No. _____ of 20____ of the (County)(City) (Town)(Village) of _____ was duly passed by the _____ on _____, 20____, and *(Name of Legislative Body)* was (approved)(not approved)(repassed after disapproval) by the _____, on _____, 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20____, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer*)*

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20____, became operative.

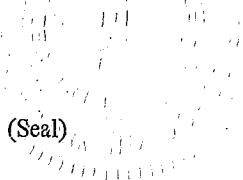
* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis, or, if there be none, the chairperson of the county legislative body, the major of a city or village, or the supervisor of the town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 26 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivision 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



(Seal)

Martha R. Hall
Clerk of the Town of Cohocton
MARTHA R. HALL

Date: 3/20/19