

**Town of Red Hook  
The Board of Ethics  
Operating Rules and Procedures  
Adopted August 21, 2009**

**Recusal Procedures**

-Whenever disclosure of a conflict is required by the Code of Ethics, the officer or employee should have no involvement in the matter. The officer or employee should not participate in discussions or communications concerning the matter and should not attend meetings with Town officials to discuss the matter. The officer or employee should ordinarily leave the room when the matter is being discussed by the applicable board, except where an officer or employee is entitled to address the board regarding his or her own property or interests as permitted by Section 13-16 of the Code of Ethics.

**Meetings of the Board**

- The Board of Ethics is subject to Article 7 of the Public Officers Law.
- Notice of all meetings must be provided as required by the Open Meetings Law and Chapter 22 of the Town Code (generally at least 72 hours notice to the media). Meetings should be held at the Town Hall or other location accessible to the public.
- Notice of meetings should be provided by the Chair, or by the Secretary at the direction of the Chair or a majority of the Board, to the Town Clerk for circulation to the Town's official papers and notice list.
- A majority of the whole number of members (3) is a quorum and must be present for the conduct of business. If less than a quorum is present, the remaining members should adjourn the meeting to a new date.
- The public has a right to be present during meetings, but not to comment. The Ethics Board is a quasi-judicial advisory board without legislative powers.
- A meeting is closed during an Executive Session. Executive Session may be called by vote of a majority of the Board during an open meeting duly called and held. The motion to go into Executive Session must cite one of the purposes permitted pursuant to the Open Meetings Law, including
  - "the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation."
- An Executive Session thus may be called for any discussions by the Board regarding the merits of a complaint concerning the conduct of a Town official or employee.
- The Board may also adjourn a meeting from time to time in order to consult with its attorney in a private attorney/client session.
- The Ethics Board acts only through the decisions of the body as a whole, and not through individual members of the Board.

## **FOIL**

- The Board of Ethics is a public body subject to Article 6 of the Public Officers Law.
- Minutes of all meetings of the Board must be kept, which should include time, date and place of meeting, members present and absent, actions taken and roll call record vote for each action. Minutes must be completed within two weeks of a meeting and filed with the Town Clerk. (These may be marked as unapproved until the next meeting of the Board at which minutes may be approved.)
- Records of the Board must be maintained and kept on file at the Town Hall.
- Copies of all minutes should be filed in the office of the Town Clerk.
- Access to the records of the Board of Ethics, other than minutes and published decisions, should be protected to the extent they contain matters which, if disclosed, would constitute an unwarranted invasion of personal privacy.
- Only authorized persons should have access to these records.
- Certain records of the Board of Ethics may be withheld from disclosure under FOIL on the grounds that they are inter-agency or intra-agency materials which are not statistical or factual tabulations or data, instructions to staff that affect the public, final agency policy or determinations, or external audits, and those which may constitute an unwarranted invasion of personal privacy.

### *Records that may be withheld include:*

- an advisory opinion of the Board; i.e. a determination by the Ethics Board that has not been adopted by the Town Board as a final determination;
- a decision by the Ethics Board that has been modified or revoked;
- the identity of a complaining party to the extent that such disclosure would constitute an unwarranted invasion of personal privacy and is not relevant to the substance of the complaint.
- The Ethics Board believes public officials will be more likely to seek ethics advice when their inquiries are treated as confidential to the extent permitted by law.
- The Town Clerk is the Town's Records Access Officer for FOIL purposes under Chapter 22 of the Town Code. All FOIL requests must be submitted to the Town Clerk and all responses must be coordinated through the Town Clerk.
- As part of its educational function, the Board of Ethics may prepare and publish with its minutes a redacted version of an opinion that explains a general principal but omits identifying facts.

### **Requests for Determination**

The Board may render a written advisory opinion

- Upon the written request of a Town officer or employee;
- Upon receipt of a written and notarized third party complaint; or
- On its own motion.

Advisory Opinions:

- Upon the written request of any Town officer or employee, the Ethics Board may render

a written advisory opinion with respect to the interpretation or application of the Code of Ethics. The advisory opinion will be provided to the officer or employee but will remain confidential to the extent permitted by law.

**Complaints:**

The Board is not authorized to accept anonymous complaints. Complaints must be signed and notarized.

If the Ethics Board preliminarily finds by its own review that a possible violation of this chapter exists, the Ethics Board may, but shall not be required to, provide the subject of the complaint with a reasonable opportunity, not to exceed 30 days, to cure such violation. Such a preliminary finding shall be confidential and not subject to public disclosure.

**Finding of Reasonable Cause:**

Before any "reasonable cause" finding shall be made, the Ethics Board shall: notify the officer or employee and afford the person an opportunity to submit a written response and upon written request, afford the affected person a hearing.

If the Board makes a finding of reasonable cause after notice and a hearing, the Board will issue an opinion to the Town Board, which has the final action in the matter.

A written recommendation must be prepared and voted by the Ethics Board. In order to provide a complete record, the recommendation must (i) state the facts; (ii) reference the particular statutory or code provision at issue; (iii) explain the rationale; and (iv) state the findings. For example, if the question presented is whether a conflict exists with respect to a proposed contract, the Board should identify the contract, the parties, the relationship between the parties which gives rise to the interest, the extent of control by the officer or employee over the contract, and whether any applicable exceptions apply.

**Forms**

1. **Written Disclosures.** Officers and Employees are required to submit written disclosure of potential conflicts as required by the Ethics Code. These disclosures are to become part of the minutes of the matter under consideration.

2. **Application for Advisory Opinion.** An officer or employee of the Town may submit an application for an advisory opinion. The application must be in writing signed by the officer or employee, state the question presented and the relevant facts.

3. **Third Party Complaint.** A third party complaint regarding a claim of violation of the Code of Ethics may be submitted by any person. The complaint must be a notarized writing signed by the complainant, identify the place of residence of the complainant, state the basis for the claim of violation, and state the relevant facts.

4. **Forms.** The attached forms may be used for written disclosure of a conflict, the submission of a request for advisory opinion, or a third party complaint.

Disclosure of Potential Conflict

Request for Advisory Opinion

Complaint Regarding Violation of Code of Ethics

Acknowledgement of Receipt of Complaint Regarding Violation of Code of Ethics

**Town of Red Hook**

**Board of Ethics**

**Disclosure of Potential Conflict**

Submit this form to “Town of Red Hook Board of Ethics, c/o Town Clerk, 7340 South Broadway, Red Hook, NY 12571.”

Submit a copy of the form to chair of the board involved, or to the head of your department if an employee (the Supervisor, Town Clerk, or Highway Superintendent as applicable).

Name of Officer or Employee: \_\_\_\_\_

Position(s) with the Town: \_\_\_\_\_

Description of Potential Conflict: (Describe the Employee or Board Involved, the application or matter involved, the Officer or Employee’s role, the potential conflict, the Persons or Companies involved.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Officer or Employee Contact Information (email and phone preferred):

\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Red Hook**  
**Board of Ethics**  
**Request for Advisory Opinion**

Submit this request in a **sealed envelope** addressed to “Town of Red Hook Board of Ethics, c/o Town Clerk, 7340 South Broadway, Red Hook, NY 12571.”

Name of Officer or Employee: \_\_\_\_\_

Position(s) with the Town: \_\_\_\_\_

Description of Request: (Describe the potential conflict, Persons or Companies involved, Basis of Exceptions):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Officer or Employee Contact Information (email and phone preferred):

\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

This form must be submitted and signed by an officer or employee of the Town.

**Town of Red Hook**

**Board of Ethics**

**Complaint Regarding Violation of Code of Ethics**

Submit this document in a **sealed envelope** addressed to “Town of Red Hook Board of Ethics, c/o Town Clerk, 7340 South Broadway, Red Hook, NY 12571.”

Name of Complaining Party:\_\_\_\_\_

Name and Position of Officer or Employee with respect to which the violation is claimed\_\_\_\_\_

Description of Claimed Violation: (Describe the potential conflict, Persons or Companies involved, Basis of Exceptions):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Complaining Party Residence Address:

\_\_\_\_\_  
\_\_\_\_\_

Signature:\_\_\_\_\_

Dated:\_\_\_\_\_

Sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

(Notary Seal)

**\*\*\*This form must be signed and notarized.\*\*\***

**Town of Red Hook**

**Board of Ethics**

**Acknowledgement of Receipt of Complaint Regarding Violation of Code of Ethics**

Name and Address of Complainant:

Complaint No. \_\_\_\_\_

Date of Receipt: \_\_\_\_\_

Madam or Sir: Your complaint has been received on the date indicated above. The matter will be reviewed in accordance with the Town’s Ethics Law, Chapter 13 of the Town Law, and the operating procedures of the Board of Ethics. Based on its review, the Ethics Board may determine that the complaint is unfounded, determine that the matter has been adequately remedied, waive noncompliance, conduct a further investigation, refer the matter for criminal investigation, render an advisory opinion to the Town Board regarding a finding of reasonable cause to believe a violation has occurred and remains uncured, and/or make a recommendation regarding appropriate sanction, discipline or other action. Because matters relating to a particular officer or employee may be confidential, you may not receive further communication from the Board on this matter. Please be assured that the Board of Ethics will review the matter promptly.

Signature: \_\_\_\_\_

Chair, Board of Ethics