

## SCHEDULE A

### **TOWN OF BEEKMANTOWN LOCAL LAW No. 1 of the year, 2012 Code of Ethics of the Town of Beekmantown**

#### **Section 1. Purpose.**

Officers and employees of the Town of Beekmantown 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 that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

#### **Section 2. Definitions.**

(a) "Board" means the governing board of a town and any town administrative board (e.g., planning board, zoning of board of appeals), commission, or other agency or body comprised of two or more town officers or employees.

(b) "Code" means this code of ethics.

(c) "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 town or an area of the town, or a lawful class of such residents or taxpayers. A town 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 or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

(d) "Town" means any board, commission, district, council or other agency, department unit of the government of the Town of Beekmantown.

(e) "Town officer or employee" means any officer or employee of the Town of Beekmantown, including, but not limited to, any officer or employee of the Town of Beekmantown whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

(f) "Relative" means a spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a town officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

### **Section 3. Applicability.**

This code of ethics applies to the officers and employees of the Town of Beekmantown, and shall supersede any prior Town of Beekmantown code of ethics. The provisions 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 the General Municipal Law and all rules, regulations, policies and procedures of the Town of Beekmantown.

### **Section 4. Prohibition on use of town position for personal or private gain.**

No town officer or employee shall use his or her town position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

### **Section 5. Disclosure of interest in legislation and other matters.**

(a) Whenever a matter requiring the exercise of discretion comes before a town officer or employee, either individually or as a member of a board, and disposition of the matter could result in a 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 town 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 town officer or employee, or when the town officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the town. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the town officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a town board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

### **Section 6. Recusal and abstention.**

(a) No town officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

(b) In the event that this section prohibits a town officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a town officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a town officer individually, then the power or duty shall be exercised or performed by his or her deputy 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 town employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

**Section 7. Prohibition inapplicable; disclosure, recusal and abstention not required.**

(a) This code's prohibition on use of a town position (section 4), disclosure requirements (section 5), and requirements relating to recusal and abstention (section 6), shall not apply with respect to the following matters:

(1) adoption of the town's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(i) all town officers or employees;

(ii) all residents or taxpayers of the town or an area of the town; or

(iii) the general public; or

(3) any matter that does not require the exercise of discretion.

(b) Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 6 of this code;

(2) which comes before a town officer when the officer would be prohibited from acting by section 6 of this code and the matter cannot be lawfully delegated to another person.

**Section 8. Investments in conflict with official duties.**

(a) No town officer or employee may acquire the following investments:

(1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 6 of this code; or

(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does not prohibit a town officer or employee from acquiring any other investments or the following assets:

(1) real property located within the town and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the town and acquired more than one year after the date on which the bonds or notes were originally issued.

#### **Section 9. Private employment in conflict with official duties.**

No town officer or employee, during his or her tenure as a town 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 section 6 of this code;

(b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a town 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 town in connection with litigation, negotiations or any other matter to which the town is a party.

#### **Section 10. Future employment.**

(a) No town 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 town officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

(b) No town officer or employee, for the two-year period after serving as a town 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 town office, board, department or comparable organizational unit for which he or she serves.

(c) No town officer or employee, at any time after serving as a town officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a town officer or employee.

**Section 11. Personal representations and claims permitted.**

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

(a) representing himself or herself, or his or her spouse or minor children before the town; or

(b) asserting a claim against the town on his or her own behalf, or on behalf of his or her spouse or minor children.

**Section 12. Use of town resources**

(a) Town resources shall be used for lawful town purposes. Town resources include, but are not limited to, town personnel, and the town's money, vehicles, equipment, materials, supplies or other property.

(b) No town officer or employee may use or permit the use of town resources for personal or private purposes, but this provision shall not be construed as prohibiting:

(1) any use of town resources authorized by law or town policy;

(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 during the business day of town telephones and computers for necessary personal matters such as family care and changes in work schedule.

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

**Section 13. Interests in Contracts.**

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

(b) Every town officer and employee shall disclose interests in contracts with the town at the time and in the manner required by section 803 of the General Municipal Law.

**Section 14. Nepotism.**

Except as otherwise required by law:

(a) No town officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the town or a town board.

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

**Section 15. Political Solicitations.**

(a) No town officer or employee shall directly or indirectly to compel or induce a subordinate town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(b) No town 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 of any town officer or employee, or an applicant for a position as a town 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 16. Confidential Information.**

No town 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 such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

**Section 17. Gifts.**

(a) No town 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 town officer or employee may directly or indirectly solicit any gift.

(c) No town officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five (75) dollars 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; or

(3) the gift is intended as a reward for any official action on the part of the officer or employee.

(d) For purposes 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 item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five (75) dollars must be made by adding together the 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 town 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 town action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a town 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 town 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 gift, including:

(1) gifts made to the town;

(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 town 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 seventy-five (75) dollars or less which are publicly presented in recognition of service as a town officer or employee, or other service to the community; or

(6) meals and refreshments provided when a town 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 18. Board of Ethics.**

(a) There is hereby established a board of ethics for the town. The board of ethics shall consist of three members, a majority of whom shall not be officers or employees of the town or immediate family members of town employees or officers, but at least one of whom must be a town officer or employee. Additionally, the Town Board shall have the authority to appoint two (2) alternate members of the Board of Ethics who shall serve in the event of the unavailability of regular board members. The members of such board of ethics shall be appointed by the Town Board, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the board of ethics. The board of ethics shall meet at least once per year.

(b) The terms of the initial appointees shall be for one, two, and three years respectively, and thereafter for three years each. The initial appointment of the alternates, if any, shall be for two and three years respectively, and thereafter for three years each.

(c) The board of ethics shall render advisory opinions to the officers and employees of the Town of Beekmantown 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 officer or employee 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 town'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.

(d) Such board of ethics upon its formation shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings. Determinations of the board of ethics shall be by majority vote, and all three members shall constitute a quorum.

(e) The opinions of the board of ethics shall be advisory and confidential and in no event shall the identity of the town employee be disclosed, except to authorized persons and agencies, or if otherwise required by law.

#### **Section 19. Posting and distribution.**

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



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

(c) Every town officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.

(d) 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 town 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 20. Enforcement.**

Any town 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 21. Supersession.**

This local law shall supersede Local Law Number 1. of the year 1970 filed with the Secretary of State on November 18, 1970.

#### **Section 22. Severability.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **Section 23. Effective date.**

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

