

## **Code of Ethics for Local Governments**

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

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.

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

The Code of Ethics adopted by the Town Council 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.

Therefore, be it resolved that the Town Council of the Town of Corning hereby adopts a Code of Ethics to read as follows:

### **Code of Ethics of the Town of Corning**

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

Municipal officers and employees of the Town of Corning hold their positions to serve the public, and not for personal gain while exercising of their official duties. The Town of Corning 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. "Abstain" means the act of voluntarily refraining from voting on a decision before a board. Abstention from voting is, in effect, a "No" vote. If a quorum of AYES is not present, the voting matter before that board is not passed. To clarify, board members who abstain do not have to leave the meeting. Rather, they vote as an abstention through the normal voting process. If you have a NYS GML Article 18 conflict with a matter before the Board and none of the 17 exemptions apply, abstention is not acceptable and you must recuse yourself from discussions and/or voting on the matter.
- b. "Board" means the Town Council and any municipal administrative board (e.g., Ethics Board, Planning Board, Zoning Board of Appeals), commission, or other agency or body comprised of two or more municipal officers or employees.

- c. "Censure" is an official condemnation, reprimand, or expression of adverse criticism, usually by a legislative or other formal body, of the conduct of one of its members or of someone whose behavior it monitors.
- d. "Code" means this Code of Ethics.
- e. "Exercise of discretion" means the right or ability of a person in a position of authority to make a judgement or decision. Situations, for example, where individuals in a position of authority to perform administrative acts use discretion as to how and/or when they will apply or exercise that authority.
- f. "Fine" means a prescribed dollar amount set by the Town of Corning Council in remuneration to the Town of Corning for violation(s) of this Town Law.
- g. "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 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.
- h. "Ministerial matters" means administrative acts carried out in a prescribed manner not allowing for substantial personal discretion.
- i. "Municipality" means Town of Corning. The word "municipal" refers to the municipality.
- j. "Municipal officer or employee" means a paid or unpaid officer or employee of the Town of Corning, including, but not limited to, elected officials and the appointed members of any municipal board.
- k. "Recusal" means the act of removing oneself from participation in any discussion and/or from voting on a matter where a conflict of interest exists so as to mitigate that conflict and/or the appearance of impropriety. To clarify, it is considered best practice and therefore expected that an individual needing to recuse oneself must leave the visible and audible vicinity of any discussions or voting on the matter until discussion and/or voting has ended.
- l. "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 municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

- m. "Removal" is an enforcement action directed at a person who violates any provision within this law. An Employee's removal must be conducted in accordance with NYS Civil Services Law. Removal of elected official must be conducted in accordance with (but not limited to): Public Officers Law, General Municipal Law, NYS Common Law, and Town Law and in the manner prescribed by law.
- n. "Suspension" is an enforcement action directed at a person who violates any provision within this law. An Employee's suspension must be conducted in accordance with NYS Civil Services Law. Suspension of an elected official must be conducted in accordance with the following (but not limited to): Public Officers Law, General Municipal Law, NYS Common Law and in the manner prescribed by law.
- o. "Warning" is an enforcement action directed at a person who violates any provision within this law. A warning is typically used for lesser violations of the law and must be delivered verbally and in writing. The written warning will be placed in the municipal officer or employee's personnel file for a period of not less than two years. If no further violations occur within that two-year period, it will then be removed from their personnel file.

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

This Code of Ethics applies to the municipal officers and employees of the Town of Corning and shall supersede any prior municipal 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 Corning.

### **Section 4. 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 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 comes before a municipal 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 municipal officer or employee shall be required to disclose in writing the nature of the interest and the disclosure must be included in the minutes of the board meeting.
- b. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

- c. In accordance with General Municipal Law Article 18 §§812 and §§811, all municipal officers and employees must complete an annual disclosure statement in the form determined by the municipality and submit it to the municipality by March 1st annually. Completed forms will be submitted to and reviewed by the Ethics Board for potential conflicts of interest. Municipal officers and employees who do not submit their completed annual disclosure statement will be subject to a \$25.00 per week fine, payable to the Town of Corning Clerk, until their completed disclosure form has been received. In the event a fine reaches \$200.00, and the completed disclosure form has not been submitted, the Ethics Board will determine what level of action is most appropriate and make its recommendation to the Town Council. As per NYS GML, disclosure statements are reviewable by the public and a copy may be obtained via the NYS Freedom of Information Law procedure.

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

No municipal 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.

- a. In 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 a municipal 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 municipal 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 municipal 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 municipal 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 municipality'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 municipal officers or employees;
    - (ii) All residents or taxpayers of the municipality or an area of the municipality; or
    - (iii) The general public; or
  3. Ministerial matters
- 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 municipal 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 municipal 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 municipal officer or employee from acquiring any other investments or the following assets:
  1. Less than five percent of the stock of a publicly traded corporation; or
  2. Bonds or notes issued by the municipality 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 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 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 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, negotiations, or any other matter to which the municipality is a party.

**Section 10. 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 that may result in a conflict pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 90 days following final disposition of the matter.
- b. No municipal officer or employee, for the four-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 organizational 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 particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

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

This 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 12. Use of municipal resources.**

- a. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel and the municipality's money, vehicles, equipment, materials, supplies and 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 and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- c. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

### **Section 13. Interests in Contracts.**

- a. No municipal officer or employee may have an interest in a contract that is prohibited by Section 801 of the General Municipal Law.
- b. Every municipal officer and employee shall disclose interests in contracts with the municipality 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 municipal 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 municipality or a municipal board.
- b. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

### **Section 15. Political Solicitations.**

- a. No municipal officer or employee shall directly or indirectly to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- a. 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 of any municipal officer or employee, or an applicant for a position as a 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 16. 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 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 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 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 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. 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.
- f. 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.

- g. This section does not prohibit any other gift, 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 seventy-five dollars or less which are publicly presented in recognition of service 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 18. Board of Ethics.**

- a. There is hereby established a Board of Ethics for the Town of Corning. The Board of Ethics shall consist of five (5) members, of which all should be Town residents or resident taxpayers of the Town of Corning. A member of the Town Council should be appointed as the non-voting liaison to the Ethics Board. This liaison will report back to the Town Council and keep it up to date and serve as a communication link between both Boards. The members of such Board of Ethics shall be appointed by the Town of Corning, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the Board of Ethics for five (5) year terms.
- b. The Board of Ethics shall render advisory opinions to the officers and employees of the Town of Corning 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.
- c. The Board of Ethics shall have the advice of legal counsel contracted with and 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 of Corning.

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

- a. The Town Clerk 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 ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.
- b. The Town Supervisor must promptly distribute a copy of this code, including any amendments to the code, to every person who is or becomes a municipal officer or employee of the Town of Corning.
- c. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing within ten days of this policy's approval and effective date. Such acknowledgments must be filed with the Town of Corning 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 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 20. Violations and Enforcement.**

- a. Any municipal officer, employee or appointee who willfully and or knowingly violates any provision of this code may face any of the following penalties, singly or in combination: warning, censure, suspension, fines, removal from office, termination from employment or appointment upon conviction by a court of competent jurisdiction. The above measures shall occur upon recommendation by the Board of Ethics and a majority vote of the Town Council.
- b. An offense constitutes a violation of Town Law, up to and including the level of misdemeanor offense. In addition to other penalties, a municipal officer or employee convicted of such offense(s) may be subject to the following financial penalties.
  1. 1st offense may constitute: a fine of not less than \$100 and not more than \$250.
  2. 2nd offense may constitute: a fine of not less than \$250 and not more than \$450 and incarceration of not less than 1 day and not more than 3 days.
  3. 3rd offense may constitute: a fine of not less than \$500 and incarceration of not less than 5 days and not more than 10 days.

- c. If a knowing and or willful ethics violation has been committed in connection with any contract, said contract shall be void and unenforceable in accordance with General Municipal Law Article 18, Section 804.

**Section 21. Effective date.**

This code takes effect immediately upon approval by resolution.

Reviewed and a motion to approve was made by \_\_\_\_\_,

and seconded by \_\_\_\_\_ On \_\_\_\_\_, \_\_, 2018.

<u>Name of Board Member:</u>	<u>Aye</u>	<u>No</u>
Kimberly A. Feehan, Supervisor	_____	_____
R. Mike Brenning, Deputy Supervisor	_____	_____
Jennifer Mullin, Town Councilman	_____	_____
Stuart Sammis, Town Councilman	_____	_____
David Shafer, Town Councilman	_____	_____

This motion was carried and this Local Law was approved by the Town Council.

\_\_\_\_\_  
Susan A. Edwards, Town Clerk

\_\_\_\_\_  
Dated Seal