

Chapter 23

ETHICS, CODE OF

- | | |
|---|--|
| § 23-1. Purpose. | § 23-11. Records maintenance. |
| § 23-2. Applicability of other provisions. | § 23-12. Records access. |
| § 23-3. Definitions. | § 23-13. Annual statement of disclosure. |
| § 23-4. Standards of conduct. | § 23-14. Transactional statement of disclosure; recusal. |
| § 23-5. Conflict of interest. | § 23-15. Severability. |
| § 23-6. Prohibited activities. | § 23-16. When effective. |
| § 23-7. Duty to report. | |
| § 23-8. Penalties for offenses. | Annual Statement of Disclosure |
| § 23-9. Ethics Board established; membership; powers. | Transactional Statement of Disclosure |
| § 23-10. Duties of Board. | |

[HISTORY: Adopted by the Town Board of the Town of Newstead 11-26-2012 by L.L. No. 8-2012.¹ Amendments noted where applicable.]

§ 23-1. Purpose.

This code establishes minimum standards of ethical conduct for Town officials and employees to help ensure that the business of government is free from improper influence that may arise from opportunities for private gain. This chapter requires timely and public disclosure of interests that could influence the actions of Town officials and employees. It is intended to:

- A. Identify potential ethical problems before they arise;
- B. Promote public confidence in the integrity of Town government;
- C. Enhance the accountability of Town government to the residents of Newstead; and
- D. Provide for fair and effective administration of this code.

§ 23-2. Applicability of other provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflict of interest provisions or procedures prescribed by statute of the State of New York. They also are in addition to common-law rules and judicial decisions relating to the conduct of Town officials and employees to the extent that the same are more severe in their application than this code.

1. Editor's Note: This local law also repealed former Ch. 23, Ethics, Code of, adopted 10-26-1970 (Ch. 13 of the 1988 Code), as amended.

§ 23-3. Definitions.

As used in this code, the following terms shall have the meanings indicated:

BOARD — Town Board (Supervisor and Council persons) of the Town of Newstead.

DEPENDENT — Son, daughter, stepson, stepdaughter or any other person who could be claimed as a dependent for federal income tax purposes.

DOING BUSINESS WITH THE TOWN — Having or providing any contract, service, or work with the Town; buying, selling, renting, leasing, or otherwise acquiring from or dispensing to the Town any goods, services or property.

FAMILY MEMBER — Spouse, spouse's siblings, parent, parents-in-law, sibling, child, stepchild, grandparent, aunt, uncle, niece, nephew, grandchild and their spouses.

INTEREST — Direct or indirect financial or material benefit accruing to a Town official or employee as the result of the Town, which such official or employee serves, entering into a contract with a person, business or other entity. A Town official or employee shall be deemed to have an interest in the contract of:

- A. A spouse, minor children or dependents, except their contract of employment with the Town which such official or employee serves;
- B. A firm, partnership or association of which such official or employee is a member or employee;
- C. A corporation of which such official or employee is an officer, director or employee; or
- D. A corporation any stock of which is owned or controlled directly or indirectly by such official or employee.

LEGAL ENTITY — Partnership, corporation, trust or other such legally recognizable entity.

MINISTERIAL ACT — Any action by a Town official or employee done in the ordinary course of his or her duties not requiring the use of judgment.

PUBLIC BODY — Entities consisting of two or more people that conduct public business and perform a governmental function for the Town or an agency or department thereof.

RECUSAL — The act or process of disqualifying oneself from discussion and/or voting by reason of prejudgment, bias or interest in a subject matter or action.

SPOUSE — The husband or wife of a Town official or employee unless living separate and apart from the employee or separated pursuant to a judicial order, decree or judgment, or a legally binding separation agreement.

TOWN — The Town of Newstead, any of its agencies, boards, committees, or departments.

TOWN OFFICIAL OR EMPLOYEE — Any person working for the Town of Newstead, whether elected, appointed, or hired, paid or unpaid, serving in a full-time, part-time or advisory capacity, but does not include the Town Justices, Officers or employees of the Unified Court System, volunteer firemen or civil defense volunteers.

TOWN RESIDENT — Person whose principal residence is in the Town or who owns real property in the Town of Newstead.

§ 23-4. Standards of conduct.

- A. Ethical behavior and integrity become recognized characteristics of an organization only when they exist in the people who make up the organization. For ethical behavior and integrity to be recognized as hallmarks of Newstead Town Government, each Town official and employee must be honest and trustworthy at all times and in all actions.
- B. Avoiding even the appearance of impropriety is important to maintaining public confidence in the integrity of Town government. Accordingly, each Town official and employee must be committed to working to earn the confidence of Town residents, fellow employees and those doing business with the Town.
- C. Equally important are the standards governing meetings of public bodies (e.g., Town boards, councils, or committees) wherein compliance by Town officials and employees with the New York State Open Meeting Law (Public Officers Law §§ 100 to 111) is required. This assures the public that any time a quorum of a public body meets to discuss and/or take action on public business, the meeting must be announced and conducted open to the public. This requirement holds whether or not there is intent to take action and regardless of the manner in which the meeting is characterized.
- D. Achieving high standards of ethical behavior and integrity often requires making difficult choices. The Town Ethics Board is available to any Town official or employee for confidential consultation and guidance on any ethics matter that may be of concern.

§ 23-5. Conflict of interest.

No Town official or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity, or incur an obligation of any nature that could be in conflict with the proper discharge of his or her duties in the public interest, as specified in the section of prohibited activities.

§ 23-6. Prohibited activities.

- A. No Town official or employee shall engage in any conduct that could give the reasonable impression that he or she could be improperly influenced by others in the performance of the Town official's or employee's official duties or that the official or employee is affected by the kinship, rank, position or influence of any party or person.
- B. No Town official or employee shall disclose confidential information acquired in the course of the Town official's or employee's official duties unless required by law, or use such confidential information to further his/her personal or financial interest.
- C. No Town official or employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for the official or employee or others, or to deny a legal right to others.

- D. No Town official or employee shall engage in any private employment or render services for private interests, which could impair the official's or employee's independence of judgment in the exercise of his or her official duties for the Town.
- E. No Town official or employee shall engage in any transaction as a representative or agent of the Town with any business entity in which the employee has a direct or indirect financial interest that could conflict with the proper discharge of the employee's official duties.
- F. No Town official or employee shall directly or indirectly solicit, accept, or receive any gift or series of gifts from a single source within a calendar year having a value that exceeds \$75, whether in the form of money, service, including professional services, loan, travel, entertainment, hospitality, thing or promise or in any other form. Exceptions are:
 - (1) Family members and friends except those doing or seeking to do business with the Town; and
 - (2) Political campaign contributions.
- G. No Town official or employee shall make personal investments in enterprises which the official or employee has reason to believe may be directly involved in decisions to be made by the official or employee or which will otherwise create substantial conflict between the official's or employee's duty in the public interest and the official's or employee's private interest.
- H. No Town official or employee shall:
 - (1) Take or refrain from taking any action; or
 - (2) Agree to take or refrain from taking any action; or
 - (3) Induce or attempt to induce any other Town official or employee, including members of any board, council, committee or agency of the Town, to take or refrain from taking any action on any matter before the Town which he or she knows or has reason to believe may result in financial or material benefit for any of the following:
 - (a) The Town official or employee.
 - (b) A member of his or her family.
 - (c) A customer or client of his or hers.
 - (d) Any partnership or unincorporated association of which the Town official or employee is a member or employee or in which he or she has a proprietary interest.
 - (e) Any corporation of which the Town official or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock.

- (f) Any person or business with whom the Town official or employee or his or her family member has an employment, professional, business or financial relationship.
 - (g) A person or entity from which the Town official or employee, or his or her spouse has received election campaign contributions totaling more than \$250 during the past twelve months.
- I. No Town official or employee shall enter into an agreement with the Town to purchase goods or services having a value in excess of \$500 per year from the Town official or employee, the Town official's or employee's family member, or a company in which the employee has an interest unless: a) those goods or services are provided following an open competitive bidding process; and b) the Town official or employee providing the goods or services files a transactional statement of disclosure as prescribed in section § 23-14 of this code. (Agreements to provide professional services are exempt from this requirement.)
 - J. No Town official or employee shall knowingly transfer any asset, interest or property for the purpose of concealing same from the disclosure required by this code while retaining an equitable interest therein.
 - K. No Town official or employee shall use any Town personnel or any Town owned or leased equipment, materials, supplies or property for personal gain or benefit to the Town official or employee, the Town official's or employee's family member or any other entity, except those which are generally available to all the residents of the Town. Nothing herein shall limit the Town's ability to assist those volunteer fire districts that encompass a portion of the Town.
 - L. No former Town official or employee, for a period of two years after termination of service with the Town, shall appear before the Town, except on his or her own behalf, in relation to any case, proceeding or application in which the employee participated, unless specifically requested by the Town Board.
 - M. No Town official or employee shall appear before any board, council, committee or agency of the Town to represent any private interest listed in Subsection H(3)(a) to (g).
 - N. No Town official or employee shall direct or influence any other Town official or employee not to appear before any board, council, committee or agency of the Town on behalf of the Town. Exceptions to this restriction are opinions of the Ethics Board and/or the Town Attorney's Office.
 - O. No Town official or employee shall directly or indirectly require any nonelected official or employee of the Town to participate in an election campaign or require the payment of any assessments, subscription or contribution to a political party, political party organization, election campaign or candidate.
 - P. No Town official or employee shall induce, or attempt to induce, or assist another official or employee of the Town to violate any provisions of this code.

- Q. A Town official or employee who knowingly and/or intentionally engages in any of the prohibited activities cited in §§ 23-4, 24-5 and 24-6 shall be penalized according to the provisions of this code.

§ 23-7. Duty to report.

- A. Every Town official or employee shall report promptly in writing to his or her immediate supervisor and the Ethics Board or the Town Attorney any action by any Town official, employee or entity doing or seeking to do business with the Town, or a person acting on behalf of such entity which he or she interprets to be an improper attempt to influence him or her in the conduct of his/her office, or any action which appears to him or her to be a violation of this Code of Ethics.
- B. Any Town official or employee reporting such actions shall be protected by the Town against reprisal for the lawful disclosure of such information.

§ 23-8. Penalties for offenses.

- A. The Ethics Board may recommend a civil penalty in an amount of up to \$10,000 to any Town official or employee who knowingly and intentionally files a disclosure statement with intent to deceive or to otherwise fraudulently misrepresent or withhold material information, and such deception or misrepresentation is found to be both intentional and material.
- B. The Ethics Board may recommend a warning, reprimand, suspension or removal from office or employment, and/or a civil penalty in an amount of up to \$1,500 for any Town employee who knowingly and willfully:
- (1) Fails to file, in a timely manner, any required statement(s) of disclosure;
 - (2) Violates any other prohibition contained in this chapter.

The employee may also be liable in damages to the Town for any loss or increase in cost incurred by the Town because of said violation.

- C. For any violation of this chapter, the Town Board may in addition to the above:
- (1) Impose a civil forfeiture of up to three times the financial value of any benefit derived from the violation;
 - (2) Refer the matter to the appropriate prosecutor.
- D. Upon the recommendation of the Ethics Board or upon its own motion, the Town Board may impose additional disciplinary action as allowed by law.
- E. Any person aggrieved by a final decision made under this code may seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules.

§ 23-9. Ethics Board established; membership; powers.

- A. There is hereby established a Town of Newstead Ethics Board. The Board shall be responsible for ensuring full compliance with this Code of Ethics, including disclosures and the New York State Open Meetings Law.
- B. The Ethics Board shall consist of seven members, each having a three-year term of office except during the period following the revision of the Code of Ethics as set forth in Subsection C below. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- C. In 2014, two new members will be appointed following the effective date of the enactment of Local Law No. 5 of the Year 2014 to serve until the end of 2014. In 2015, three members will be appointed each to a three-year term. The terms of the existing members with terms set to expire on December 31, 2016 and 2017, will expire on December 31, 2015. In 2016, two members will be appointed each for a three-year term. The terms of the existing members set to expire on December 31, 2018 and December 31, 2019, will expire on December 31, 2016. In 2017, two members will be appointed each for a three-year term. Thereafter as each term expires each new member will be appointed to a three-year term. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- D. In the event a vacancy occurs prior to the expiration of any term, the Town Board, within three months, or as soon as practicable, shall fill such vacancy for the balance of the term in the same manner as members are appointed to full terms. All members shall reside in the Town of Newstead and serve without compensation except for necessary and reasonable expenses.
- E. No more than three members of the Ethics Board may be affiliated with the same political party. No member shall serve as a committee person or officer of any political party. Ethics Board members are subject to the same ethics and disclosure requirements as are other Town officials and employees. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- F. At least one member, but less than a majority of the Ethics Board, shall be an appointed official or employee of the Town. No elected Town official may be appointed to the Ethics Board.
- G. The members of the Ethics Board shall select a Chairperson, Vice Chairperson and Secretary at the first meeting of each year. The duties of the Chairperson will include: overseeing the general and special meetings; Vice Chairperson: act as Chairperson in the absences of the Chairperson; Secretary: take minutes of regular meetings. The Secretary will not be responsible to take minutes of meetings or hearings on a specific complaint. In the case of complaints, the Town Clerk or Deputy Town Clerk will be required to keep minutes. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- H. The Ethics Board shall meet at least two times per year. Additional meetings may be called by the Chairperson or a majority of all the members upon written seven-day notice to the remaining members of the Ethics Board. A majority of the Ethics Board, then appointed, shall constitute a quorum.
- I. A three member Complaint Review Committee shall be selected by the Ethics Board Chairperson at the first meeting of the Ethics Board each year. No more than one member of said committee shall be from the same political party. Ethics Board members

shall vote their approval of these selected members at this meeting. This Committee shall conduct preliminary investigations of complaints and report its findings back to the full Ethics Board. The remaining members of the Ethics Board, less the Chairperson, shall constitute a Disclosure Review Committee to review both the annual and transactional disclosures submitted by Town officials and employees and then report promptly their findings to the full Board. This includes annual disclosures filed during the year by new employees and amended disclosures filed by employees who are reporting changes in the information provided. The Disclosure Review Committee shall review periodically through the year all transactional disclosures filed with the Town Clerk to verify that such disclosures are complete and meaningful, including those where recusal does not take place. Discrepancies are to be reported promptly to the Ethics Board.

- J. Meetings of the Ethics Board shall be open to the public, except meetings called to review disclosure statements, to develop and endorse advisory opinions, or to act upon complaints filed with the Ethics Board. A meeting that would otherwise be closed may be opened upon the written request of the Town official or employee whose matter is being considered. The public shall have a ten-day notice of any regularly scheduled meeting posted in the official paper and Town website. In the case of meetings on a specific complaint, the meeting notices will be published on the Town website in as much advance notice as is possible and if feasible will be published in the official newspaper of the Town. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- K. An Ethics Board member may be removed by the Town Board after:
 - (1) Receipt of written notice of allegations of substantial neglect of duty, gross misconduct, inability to discharge the powers and duties of the office or violation of this code;
 - (2) An opportunity to reply;
 - (3) A finding of substantial neglect of duty, gross misconduct, inability to discharge the powers and duties of the office or violation of this code;
 - (4) Failure to attend two consecutive meetings of the Ethics Board.
- L. The Ethics Board shall prepare and recommend to the Town Board for approval rules, regulations and procedures necessary for internal implementation of this code. Following approval by the Town Board, the Ethics Board shall conduct its affairs in accordance with the approved rules, regulations, and procedures, plus the New York State Administrative Procedure Act and General Municipal Law.
- M. The Board of Ethics shall possess, exercise and enjoy all the rights, powers, and privileges necessary to the enforcement of this Code of Ethics, including after prior request and receipt of authorization from the Town Board, the power of subpoena. This power to subpoena includes any individual, whether or not a Town official or employee, and any document or thing deemed necessary by the Ethics Board to aid in resolving any complaint or investigation.
- N. The Town Clerk shall be the Clerk of the Board of Ethics and all ethics documents filed with the Town Clerk shall be deemed for the purposes of this Code to be filings with the

Board of Ethics. The Town Clerk or Deputy Town Clerk shall be required to keep minutes of any meetings or hearings on a specific complaint. [Amended 9-8-2014 by L.L. No. 5-2014]

§ 23-10. Duties of Board.

A. Advisory opinions.

- (1) Upon receipt of a written and signed request, the Ethics Board shall render written advisory opinions to any Town official or employee, Town agency, board, committee or department or to persons or entities seeking to do or doing business with the Town. Such advisory opinions shall consider whether an action or situation contemplated or being performed by a person or entity may be in violation of the prohibited activities cited in § 23-4, 23-5 or 23-6 of this Ethics Code or other state or municipal laws. The Ethics Board shall have the advice and support of counsel employed by the Town or by the Ethics Board in these matters.
- (2) A request for an advisory opinion shall not be made public by the Ethics Board. The requestor should also refrain from public disclosure of the request, unless circumstances require distribution to affected parties. Advisory opinions rendered by the Ethics Board shall be adopted by vote of the Ethics Board members and shall be distributed only to the requestor, any person(s) cited in the request as being subject to the opinion, Ethics Board members and the Town Attorney. An exception may be made to this rule if the requestor states in writing that the opinion may be made public by the Ethics Board.
- (3) If the Ethics Board decides that the opinion rendered may benefit other officials or employees of the Town, the Ethics Board, with the written consent of the requestor, may prepare and publish a summary of such opinion. All references to specific persons, entities or the like shall be deleted before the opinion is made public.
- (4) Opinions that are not made public pursuant to the above procedure shall be accessible only to the Ethics Board and to the Town Attorney to guide future deliberations.

B. Review statements of disclosure.

- (1) The Disclosure Review Committee of the Board of Ethics shall review all filed statements of disclosure, annual and transactional. This review is to determine whether, pursuant to this code, any official or employee required to file a disclosure has failed to do so, has filed a deficient disclosure, or has filed a disclosure which reveals that a potential or real conflict of interest exists and, if so, has been reported by the Town official or employee involved. The results of such reviews shall be reported periodically by the Disclosure Review Committee to the Ethics Board.
- (2) The Ethics Board shall investigate any reported conflict of interest and if it decides that a conflict of interest exists, it shall notify the employee in writing of its

findings. The employee shall be given the opportunity to appear before the Ethics Board for the purpose of responding to the Ethics Board's findings. After the hearing, the Ethics Board shall affirm, affirm with modification, or vacate its initial findings. Upon a determination to affirm or affirm with modification its initial finding, the Ethics Board shall forward such recommended determination to the Town Board, and suggest penalties in accordance with this code.

C. Complaints.

- (1) The Ethics Board shall receive and act upon any written complaint alleging violations of this code. Upon receipt of a complaint, the complaint will be initially reviewed by Complaint Review Committee to insure that all required information required under the Code of Ethics is included in the complaint. If following the review, the Complaint Review Committee determines that the complaint meets the requirements of the Code of Ethics, then the matter will proceed with the complaint process through the Ethics Board. If it determines that there is not a complaint that meets the requirements of the Code of Ethics, the Complaint Review Committee will notify the Chairperson who will notify the complainant that the complaint does not meet the requirements and that they will have to amend their complaint to meet the requirements of the Code of Ethics and resubmit if they want to pursue the complaint further. A complaint may be submitted by any Town resident, Town official or employee or entity doing or seeking to do business with the Town. The complaint must be signed by the person or legal entity alleging a violation of specific sections of this code by a Town official or employee. Distribution of the complaint by the complainant shall be limited to the Town Ethics Board, the Town Attorney and the Town official and/or employee named in the complaint. Absent a written complaint, the Ethics Board, with Town Board approval, may conduct an investigation to validate an alleged violation and act upon the alleged violation per the powers and procedures specified in this section. **[Amended 9-8-2014 by L.L. No. 5-2014]**
- (2) The Ethics Board shall refer a complaint to its Complaint Review Committee which will investigate promptly the validity of the complaint and report its findings and recommendations back to the Ethics Board. The Committee may require the appearance of the official(s) and/or employee(s) named in the complaint and any other parties for questioning, as appropriate to its complaint validation effort.
- (3) Upon receiving the report of the Complaint Review Committee, the Ethics Board shall dismiss the complaint if no credible evidence is found to support it. If credible evidence is found to support the complaint, a full formal hearing by the Ethics Board must be held with written notice to all interested parties.
- (4) The Town official(s) and/or employee(s) who are the subject of the complaint must receive written notice of both the Review Committee's request to meet with him/her for questioning and any full hearing on the complaint by the Ethics Board. He or she must appear at these meetings. Any notice and hearing pursuant to this subsection shall be governed by the provisions of the New York State Administrative Procedure Act as to such matters as proper notice and the right to counsel for both the Review Committee questioning and the Ethics Board hearings.

The Board may require the appearance and response of Town official(s) and/or employee(s) named in the complaint plus any other persons who may be able to provide information bearing on the complaint validity by exercising its subpoena powers, if needed.

- (5) If the Ethics Board finds the complaint not supported by a preponderance of factual and credible evidence, the complaint must be dismissed and shall not be made public. If a preponderance of factual and credible evidence is found to support the complaint, the Ethics Board shall make a determination, setting forth its reasons, recommend a penalty, and forward these to the Town Board for implementation.
 - (6) A written decision must be prepared by the Ethics Board for every complaint and be sent to the subject of the complaint, the submitter of the complaint, the Town Board and Town Attorney. It shall include, at a minimum:
 - (a) A statement of the complaint received alleging violation of this code;
 - (b) The evidence or information upon which the Ethics Board based its decision; and
 - (c) The Ethics Board's determinations and recommendations to the Town Board.
 - (7) If the Ethics Board finds insufficient evidence to validate the complaint and dismisses the allegation, the subject(s) of the complaint may elect to have the Ethics Board's written findings made public. If the complaint is found to be valid and a recommendation is made to the Town Board, the Town Board may make public the nature of the complaint and its action on the matter.
- D. Education. The Ethics Board shall assist with compliance with this code by:

- (1) Responding to written requests submitted by Town officials or employees as to the meaning of any portion of the Ethics Code.
- (2) Developing training programs and materials on provisions and the intent of this Code for education of Town officials or employees and residents, as directed by the Town Board.
- (3) Providing opportunities for meetings with interested parties and organizations, including posting of its meetings and agendas so the public can attend and observe the open portions of its meetings.

§ 23-11. Records maintenance.

- A. The Town Clerk's Office shall be the repository for all records generated in compliance with this code.
- B. All records, except advisory opinions and written decisions in response to complaints shall be destroyed after seven years from the date of filing.
- C. Records shall include, but not be limited to, the following:
 - (1) List of Town officials and employees to be updated by January 25 of each year by the Town Clerk.
 - (2) Annual statements of disclosure.
 - (3) Transactional statements of disclosure.
 - (4) Requests for advisory opinions.
 - (5) Advisory opinions.
 - (6) Complaints received, summary of complaint investigations, determinations and recommendations.

§ 23-12. Records access.

- A. Those records generated by this code and the Ethics Board shall be governed by the Freedom of Information Law of the State of New York.
- B. Certain records generated by this code and the Ethics Board as set forth herein are deemed to be documents the disclosure of which would violate an employee's privacy and are not open to public inspection. Documents exempt from such disclosure shall include but not be limited to the following:
 - (1) Complaints against specific Town officials and/or employees and all materials related to such actions, including determinations and recommendations.
 - (2) Materials of any nature relating to ongoing investigations by the Ethics Board.
 - (3) Requests for advisory opinions in accordance with this code.

(4) Advisory opinions.

- C. It shall be a violation of this code for a Town official or employee to inspect or copy a publicly accessible document for any unlawful purpose.
- D. A Town official or employee whose disclosure form is accessed pursuant to the above provisions shall be promptly notified in writing by the Town Clerk of such access and the requestor's identity.

§ 23-13. Annual statement of disclosure.

- A. Except as otherwise provided, all Town officials and employees, paid or unpaid, are required to file with the Town Clerk an annual statement of disclosure. The disclosure form shall be developed and recommended by the Ethics Board and approved by Town Board resolution.
- B. By January 30 of each year, the Town Clerk shall mail a copy of the annual statement of disclosure form to all Town officials and employees. Town Justices and Employees of the Unified Court System, summer employees, election inspectors, school crossing guards, and subcommittee members are not required to file an annual disclosure.
- C. Town officials and employees shall fill out and sign their annual statement of disclosure and return it to the Town Clerk within 30 days of their receipt of the annual statement of disclosure form.
- D. If any change in the information provided in an employee's annual disclosure occurs during the calendar year, an amended disclosure must be filed with the Town Clerk within 30 days after the change occurs.
- E. All newly hired, appointed or elected Town officials or employees shall file an annual statement of disclosure within 30 days of their date of hire or appointment.
- F. Copies of the annual statement of disclosure forms are available from the Town Clerk. A copy of the annual statement of disclosure, although it is not a part of the Ethics Code, is included as Attachment 1² of this Code of Ethics for information and reference.

§ 23-14. Transactional statement of disclosure; recusal.

- A. Whenever a Town official or employee is requested or required to take action in an official capacity on a matter before the Town and presently knows that either the performance or nonperformance of that action would provide a monetary or material benefit to the official or employee, or to a related person, different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, then the Town official or employee shall publicly disclose the nature and extent of his or her interest, promptly file a signed transactional statement of disclosure (See Attachment 2.³) with his or her immediate superior and the Town

2. Editor's Note: Said attachment is included at the end of this chapter.

3. Editor's Note: Said attachment is included at the end of this chapter.

Clerk, and shall not participate or act in that matter. (See Subsection E below in this section.) Copies of the transactional statement of disclosure are available from the Town Clerk.

- B. For purposes of this section, "related person" means:
- (1) A family member.
 - (2) Any person, business or entity with which the Town official or employee, or family member has an employment, business or financial relationship.
- C. Any Town official or employee, upon learning of any matter being considered by the Town in which said employee or family member has or may have a foreseeable interest, must promptly, before any final action is taken, file a signed transactional disclosure with his or her immediate superior and the Town Clerk, stating the nature and extent of his/her or a family member's interest. This filing is required even though the employee is not a participant in the Town action. The immediate superior shall promptly advise the Town body considering the matter of this employee's interest.
- D. Nothing in this section shall prohibit a Town official or employee from performing any ministerial act or require a Town employee to file a transactional statement of disclosure prior to performing a ministerial act. The award of a contract by a Town official pursuant to the public bidding requirements of § 103 of the General Municipal Law of the State of New York shall be deemed a ministerial act.
- E. Factors.
- (1) Whereas disclosure of an interest in a matter being considered by the Town is always required, the necessity for a Town official or employee to recuse himself or herself must take into account:
 - (a) To what extent the interest of the Town official or employee, a family member or employer is tenuous or distant;
 - (b) The public's expectation for the employee to participate and vote in the matter under consideration; and
 - (c) The possible appearance of impropriety if the employee does not recuse.
 - (2) Having taken into account these three factors and made fair and timely public disclosure, a decision not to recuse oneself shall not be deemed unethical.
- F. All transactional disclosures submitted to the Town Clerk, including the reason given for not recusing, if that be the case, are to be included in the minutes of the Town body considering the matter for which disclosure was made.
- G. Copies of the transactional statement of disclosure forms are available from the Town Clerk. A copy of the transactional statement of disclosure, although it is not a part of the

Ethics Code, is included as Attachment 2⁴ of this Code of Ethics for information and reference.

§ 23-15. Severability.

If any clause, sentence, paragraph, section or part of this code 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.

§ 23-16. When effective.

This chapter shall become effective immediately upon its filing with the Secretary of State.

4. Editor's Note: Said attachment is included at the end of this chapter.

ETHICS, CODE OF

23 Attachment 1

Town of Newstead

**Annual Statement of Disclosure
For Employees of the Town of Newstead**

For Calendar Year 20____

NAME: _____

ADDRESS: _____

SPOUSE'S NAME: _____
(If applicable)

DATE OF HIRE/APPOINTMENT/ELECTION: _____

The purpose of this "Annual Disclosure" is to identify potential conflicts of interest before such conflicts occur. In answering the questions below, the following definitions are critical:

A. Interest, as used in this Disclosure, is defined as follows:

1. Providing goods, influence, investment, property or service(s) to any person, business or entity for which compensation or benefit is expected or received; and
2. Holding ownership, title or right, alone or with others, to a property, within the Town or bordering the Town.

B. Contract, as used in this Disclosure, shall be defined in accordance with Standard English usage.

PLEASE ANSWER THE FOLLOWING FOUR QUESTIONS AND THEN SIGN YOUR NAME.

1. Do you, your spouse or dependents have an interest in any business or entity doing business with the Town currently or within the past 12 months?
Yes _____ No _____
2. Do you, your spouse or dependents have an interest in any contract made or executed by the Town within the past 12 months?
Yes _____ No _____
3. Do you receive any benefits, compensation, or other consideration that are derived directly or indirectly from your employment or association with the Town of Newstead other than your remuneration from the Town for the services you provide?
Yes _____ No _____

NEWSTEAD CODE

If you answered yes to any of these questions, please describe the nature, source and amount of such benefits, compensation and other considerations.

4. During the current year, if there are any changes in your answers to items 1, 2, or 3 above, you must file an amended "Annual Disclosure" with the Town Clerk within 30 days of such change.

I HEREBY CERTIFY THAT THE INFORMATION I HAVE PROVIDED IN THIS ANNUAL DISCLOSURE IS TRUE, CORRECT, AND COMPLETE. I HAVE REVIEWED THE CURRENT CODE OF ETHICS FOR THE TOWN OF NEWSTEAD.

Signature

Print Name

Date: _____

(Copies of this form are available from the Town Clerk)

ETHICS, CODE OF

123 Attachment 2

Town of Newstead

Code of Ethics

Transactional Statement of Disclosure

NAME: _____

ADDRESS: _____

POSITION: _____

MATTER TO BE DISCLOSED: _____

REASON FOR DISCLOSURE: _____

DO YOU PLAN TO RECUSE YOURSELF DUE TO THIS DISCLOSURE?

Yes _____ No _____

IF NO, PLEASE STATE THE REASON (S)

Date: _____

(Signature)

(Please print name)

(Copies of this form are available from the Town Clerk)