

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

~~Town~~

~~Village~~

Wayland

Local Law No. 3 of the year 19 2005

A local law

CREATING AN ETHICS LAW FOR THE TOWN OF WAYLAND,

(Insert Title)

STEBEN COUNTY, NEW YORK

Be it enacted by the Town Board of the

(Name of Legislative Body)

~~County~~

~~City~~

~~Town~~

~~Village~~

Wayland

as follows:

Section 1. Purpose

The purpose of this Local Law is to create the Town of Wayland Ethics Law in compliance with article 18 of the New York State General Municipal Law (the "Ethics Law"). The citizenry of the Town of Wayland ("the Town") are entitled to the expectation of exemplary ethical behavior from their officers, employees and appointed officials, and this law is intended to create the minimum standards which constitute that behavior. This legislation recognizes that varying degrees of professional and governmental responsibility warrant equitable requirements in pursuit of official integrity, which must be balanced against individual constitutional rights. Any particulars not determined in this law shall be construed within the provisions of General Municipal Law article 18.

Section 2. Definitions

Unless otherwise indicated, the following terms shall be defined as such for the purpose of the Ethics Law:

APPOINTED OFFICIAL – Any individual who is appointed by the Town Board of the Town to an agency, department, council, commission or board, whether unpaid or paid.

APPROPRIATE BODY – Pursuant to article 18 of the General Municipal Law, the Board of Ethics of the Town.

TOWN – The Town or any department, board, office, commission agency or authority thereof.

DEPARTMENT – Any of the divisions of Town government referred to in the definition of legislation in this section, except the Town Board.

ATTESTATION FORM – The annual signature form set forth on Exhibit A of this Local Law.

INTEREST – A direct or indirect pecuniary or material benefit according to a municipal officer, employee or appointed official, whether as the result of a contract with the Town or otherwise.

JURISDICTION – Having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of any Town department.

LEGISLATION – A matter that appears upon the calendar or agenda of the Town Board of the Town or upon a committee thereof upon which any official action has been taken, and which includes adopted acts, local laws, ordinances or resolutions.

OFFICER or EMPLOYEE – Any officer or employee of the Town and any elected official, appointed official and head of any agency, commission or board of the Town, whether paid or unpaid.

POLICY-MAKING POSITION – An officer or employee whose duties are not ministerial in nature and designated to be “policy-making” by the Town Board as set forth on Exhibit B to this Local Law.

ATTESTING INDIVIDUAL - An officer, employee or elected official, and any other persons/positions enumerated in Exhibit B attached hereto, who is required to complete and file an attestation form pursuant to this Local Law.

CITY/VILLAGE/TOWN ELECTED OFFICIAL – The Supervisor, a member of the Town Board, the Town Clerk and the Town Justices.

Section 3. Conflict of Interest

It is the policy of the Town Board of the Town that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an officer or employee has an interest, direct or indirect, which conflicts with his or her duty to the Town or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. No officer or employee shall:

A. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or awarding of any contract or in any business or professional dealings with the Town or any department thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.

B. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

C. Solicit, directly or indirectly, any gift or receive or accept any gift having the value of seventy-five (\$75) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

D. Disclose confidential financial information acquired in the course of his or her official duties or use such information to further his or her personal interest.

E. Take action on a matter before the Town or any instrumentality thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

Section 4. Disclosure of Interest

A. Any officer who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Town Board of the Town or by any other official, board, department, officer or employee of the Town and who participates in the discussion before or who gives an opinion or gives advice to any board, department or individual considering the same shall publicly disclose on the official record of the Town the nature and the extent of such interest.

B. Any officer or employee of the Town who has knowledge of any matter being considered by any board, department, officer or employee of the Town, in which matter he or she has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her interest to such board, department, officer or employee and the nature and the extent thereof to the degree that such disclosure gives substantial notice of any potential conflict of interest.

C. Attesting individuals, as enumerated on Exhibit B, must file with the Town Board of Ethics an annual statement in the form prescribed on Schedule A, which shall be supplied to them by the office of the Town Clerk. This statement shall be completed and returned, in a sealed envelope, to the Board of Ethics on or before March 31 of the year for

which the employment is in effect. The list of attesting individuals or positions subject to filing the annual disclosure form may be amended from time to time by resolution of the Town Board.

- D. Any person who is required to file an annual Attestation Form may request, prior to March 31 of the year for which the employment is in effect, an extension of filing for an additional specific period of time. Such request shall be made, in writing, to the Board of Ethics, with approval based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request by vote of the membership, and extensions shall be for the specific period of additional time requested.

Section 5. Review

Every official, employee, and/or any of those persons/positions listed on Schedule B, is required to attest, on an annual basis, that he or she has reviewed the Code of Ethics of the Town to be made on or before March 31 of the year for which the employment is in effect.

Section 6. Board of Ethics

A. Establishment. The Town Board of the Town, pursuant to article 18 of the New York State General Municipal Law, hereby establishes the Town Board of Ethics, responsible for ensuring full compliance with this Code of Ethics and Disclosure. The Board of Ethics shall consist of three (3) members, who shall be appointed by the Town Board. All shall be approved by majority vote of the entire Town Board. Any action of the Board of Ethics requires two affirmative votes.

B. Membership.

1. One of the three appointed members of the Town Board of Ethics shall be an incumbent member of the Town Board. Members of the Board of Ethics shall serve without compensation, but shall be entitled to reimbursement of reasonable expenses and for mileage, in accordance with rules established by the Town Board. Members of the Board of Ethics shall be construed under this Local Law as policy-making officials, and thus be subject to all of the appropriate ethics and disclosure requirements.
2. The members of the Board of Ethics shall serve staggered three-year terms. Members shall not serve more than two (2) full three-year terms.

C. Removal. In addition to penalties defined specifically for violation of this Ethics Law and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed for cause by the Town Board. Prior to removal, the Board of Ethics member shall be given written notice of the grounds for removal and an opportunity to reply.

D. Powers and duties.

1. The Board of Ethics shall possess all powers and duties authorized by section 808 of General Municipal Law.
2. The Board of Ethics shall be the repository for completed annual attestation statements and any other written instruments, affidavits and disclosures as may be required under this Local Law.
3. The Board of Ethics shall possess, exercise and enjoy all the rights, powers and privileges necessary and proper to the enforcement of the Code of Ethics and completion and filing by attesting officers, employees and other officials of the Town of the annual attestation form required by this act.
4. The Board of Ethics may promulgate rules and regulations in furtherance of its powers and duties enumerated herein. Said rules and regulations may include rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. The Town Board may empower the Board of Ethics to subpoena any individual, whether or not a Town officer, employee or appointed official, and any document or thing which the Board of Ethics deems necessary to the resolution of any pending adjudicatory proceeding or matter.
5. Opinions.
 - a. The Board of Ethics shall render advisory opinions, in writing, regarding specific matters pertaining to filings and to officers, employees and appointed officials of the Town with respect to this Local Law and article 18 of the General Municipal Law. Such opinions shall be rendered only upon written request by the officer, employee or appointed official concerning only the subject of the inquiry as it pertains to the requesting individual's own filing requirements.
 - b. Such opinions shall not be made public or disclosed unless required by the Freedom of Information Law (Public Officers Law article 6) or required for use in a disciplinary proceeding or proceeding under this Local Law involving the officer, employee or appointed official who requested the advisory opinion. Whenever a request for access to an advisory opinion herein is received, the officer, employee or appointed official who requested the opinion shall be notified of the request within forty-eight (48) hours of the receipt of the request.

6. The Town Attorney or his or her deputy shall serve as counsel to the Board of Ethics.
7. The Board of Ethics shall be empowered to request support staff assistance from the chief elected official in furtherance of its duties and responsibilities.

Section 7. Appeals

An appeal may be taken by the filing of a written petition in opposition to any decision or determination within thirty (30) days from the date that the decision or determination was filed with the Town Board of Ethics. Upon receipt of the petition, the Board of Ethics shall make a determination upon the merits of the application within thirty (30) days.

Section 8. Penalties for Offenses

- A. An attesting individual who knowingly and willfully fails and refuses to file an annual attestation form or who willfully violates a provision of Sections "2" or "3" of this Local Law shall be assessed a civil penalty in an amount not to exceed three thousand dollars (\$3,000). Assessment of a civil penalty hereunder shall be made by the Town Board of Ethics.
- B. For a violation of this Local Law, other than for conduct which constitutes a violation of section 73, subdivision 12, of the Public Officers Law, the Town Board of Ethics may, in lieu of a civil penalty, refer a violation to the County District Attorney and, upon such conviction but only after such referral, such violation shall be punishable as a Class A misdemeanor.
- C. Upon an appropriate determination and vote, the Town Board of Ethics may file a written recommendation with the chief elected official or other disciplinary body, establishing grounds for removal for cause, in accordance with other provisions of the Town Law pertaining to officers, officials and employees and rules governing conduct.
- D. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for a failure to file or for a false filing of a statement, except that the Town Board may impose disciplinary action as otherwise provided by law.
- E. The Board of Ethics may adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms.
- F. Assessment of civil penalty shall be final unless modified, suspended or vacated within thirty (30) days of imposition and, upon becoming final, shall be subject to review at the instance of the affected individual in a proceeding commenced against the Board of Ethics pursuant to article 78 of the Civil Practice Law and Rules.

Section 9. Statement

The Town Board hereby designates the form, as attached in Schedule A, as the official attestation form for the purposes of fulfilling the requirements of the Town Ethics and Disclosure Law.

Section 10. Repeal

Local Law No. 2 of 2004 entitled "A Local Law Creating An Ethics And Disclosure Law For The Town of Wayland, Steuben County, New York" is hereby repealed.

Section 11.

Local Law Number 3 of 2005 entitled "A Local Law creating an ethics and disclosure law for the Town of Wayland" is hereby repealed.

Section 11. Effective Date

This Local Law shall take effect with its filing with the New York State Secretary of State.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2005 of the ~~(County)(City)~~(Town)(Village) of Wayland was duly passed by the TOWN BOARD on July 18, 2005 in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

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

Beverly L. Robinson

~~Clerk of the County Legislature, County, City, Town or Village Clerk~~
or officer designated by local legislative body Beverly L. Robinson

(Seal)

Date: July 18, 2005

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEURDEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister

Signature: Patrick F. McAllister

ATTORNEY FOR TOWN OF WAYLAND
Title

~~CITY~~

~~TOWN~~

~~VILLAGE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

~~OFFICE~~

~~CITY~~ of WAYLAND

~~TOWN~~

~~VILLAGE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

~~OFFICE~~

~~CLERK~~

Date: 7-18-2005

EXHIBIT A
ATTESTATION FORM

Date: _____

I, the undersigned, in my capacity as _____ (title of person, eg.
employee, officer elected official, etc.) hereby attest that I have read the Ethics Law of the Town
of Wayland, that I fully understand the contents thereof and that I will abide by its provisions.

EXHIBIT B

**List of positions required to complete and file an attestation form pursuant to this
Local Law.**

TOWN SUPERVISOR

EVERY TOWN COUNCIL MEMBER

TOWN SUPERINTENDENT OF HIGHWAYS

TOWN CLERK

EVERY TOWN JUSTICE

CODE ENFORCEMENT OFFICER

TOWN ASSESSOR

TOWN ATTORNEY or ATTORNEY FOR THE TOWN (which ever applies)

EVERY MEMBER OF THE PLANNING BOARD

EVERY MEMBER OF THE BOARD OF APPEALS

EVERY MEMBER OF THE BOARD OF ASSESSMENT REVIEW