

## **Article 11 CODE OF ETHICS**

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### **11.1 PURPOSE.**

Officers, employees, and members of the Fire Department of the Village of Owego hold their positions to serve and benefit the public. In the exercise and performance of their official powers and duties, they must seek neither unwarranted personal or private gain, nor injury of the organization or its participants. In compliance with State Law, fire board recognizes that, in furtherance of these fundamental principles, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

### **11.2 DEFINITIONS.**

- (a) "Employee" means a paid employee of the fire department including, but not limited to, paid firefighters and emergency medical service personnel.
- (b) "Family member" means a parent, sibling, spouse, child, sibling's child, uncle, aunt, first cousin, or household member.
- (c) "Fire department" means the Fire Department of the Village of Owego.
- (d) "Fire board" means the fire department's board of trustees which includes the chief engineer, the first and second assistant engineers, the secretary, the treasurer, and the foreman and first assistant foremen of each of the fire companies within the fire department.
- (e) "Fire service area" means the geographic territory for which the fire department is obligated to provide fire protection or other emergency services.
- (f) "Interest" means a direct or indirect monetary, financial or other material benefit, but does not include any benefit arising from the provision or receipt of fire protection or other emergency services generally available to the residents of the fire service area. A person is deemed to have an interest in the contracts of any firm, partnership or corporation of which he or she is an owner, partner, director, officer, employee or stockholder.
- (g) "Member" (unless context show otherwise), "member of the fire department", or "fire department member" means a volunteer member of the fire department. The official powers and duties of a fire department member refers to the individual's powers and duties under laws, under rules or regulations adopted by the fire board, or under policies or procedures of the fire board or the chief of the fire department.
- (h) "Officer" means a person serving as a paid or volunteer officer of the fire department including, but not limited to, the members of the fire board and each assistant chief, deputy chief, captain, or lieutenant.

**11.3 APPLICABILITY.**

This code of ethics applies to the officers, employees, and members of the fire department. The provisions of this code of ethics shall apply in addition to all state and municipal laws, all rules or regulations of the fire board, and all policies and procedures of the fire board, and the chief of the fire department.

**11.4 APPEARANCE OF IMPROPRIETY.**

No officer or employee of the fire district, and no member of the fire district fire department shall create an appearance of impropriety, by giving the impression that he or she will exercise or perform his or her official duties on the basis of family, private business or social relationships, or any consideration other than the welfare of the fire department.

**11.5 USE OF POSITION FOR PERSONAL OR PRIVATE GAIN.**

- (a) No officer, employee, or member of the fire department, may use his or her position to secure unwarranted personal or private gain for himself or herself, or for any other person or any organization. Unwarranted personal or private gain does not include any payment, benefit or opportunity that is available to any of the following groups of people:
- (1) all of the officers, employees or members of the fire department;
  - (2) all of the members of a fire department fire company;
  - (3) all of the eligible residents of the fire service area; or
  - (4) the general public.
- (b) No officer, employee, or member of the fire department, may use or permit the unauthorized use of fire department resources for personal or private purposes. Fire department resources include, but are not limited to, use of fire department personnel, or use of the fire department's money, vehicles, equipment, materials, supplies or other property.
- (c) No officer or employee of the fire district, and no member of the fire department, shall cause the fire department to spend more than is reasonably necessary for transportation, meals, or lodging in connection with official travel.
- (d) This section does not prohibit an officer, employee or fire department member from:
- (1) responding to a fire or other emergency;
  - (2) voting to approve the fire department's annual budget;
  - (3) authorizing or receiving lawful compensation for services as an officer or employee of the fire department;
  - (4) authorizing or receiving lawful payment or reimbursement for actual and reasonably necessary expenses incurred by an officer, employee or fire department member in the performance of his or her official duty;

- (5) authorizing or receiving lawful benefits as a fire department member including, but not limited to, service awards, group life insurance, and benefits under the Volunteer Firefighters Benefit Law;
- (6) authorizing or receiving payments under a lawful fire department contract;
- (7) using fire district personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law; or
- (8) performing a mandatory function that does not require the exercise of discretion.

### **11.6 DISCLOSURE OF INTEREST IN LEGISLATION.**

- (a) Every officer, employee, and member of the fire department, must disclose the nature of any interest, in any matter coming before the fire board for action, which any of the following people have any interest:
  - (1) the officer, employee, or member of the fire department;
  - (2) a family member of the officer, employee, or member of the fire department; or
  - (3) a family member of the spouse of the officer, employee, or member of the fire department.
- (b) For purposes of this section, a “matter coming before the fire board for action” means a motion, resolution or any other issue or question requiring a vote of the board.
- (c) The disclosure required by this section must be in writing and must be made publicly to the fire board. The fire board must cause the disclosure to be included in the minutes of the meeting at which the disclosure is made.
- (d) Disclosure is not required with respect to interests in the following actions by the fire board:
  - (1) adoption of the fire district’s annual budget;
  - (2) authorization of lawful compensation for services as an officer or employee of the fire department;
  - (3) authorization of lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee, or member of the fire department in the performance of his or her official duty; or
  - (4) authorization of lawful benefits to the members of the fire department including, but not limited to, service awards, group life insurance, and benefits under the Volunteer Firefighters Benefit Law.

### **11.7 RECUSAL AND ABSTENTION.**

- (a) Except as otherwise required by law, no officer, employee, or member of the fire department, may participate in the discussion or vote on any matter, or exercise or perform any other official powers or duties in connection with, any matter, when any of the following people have an interest in the matter:
  - (1) the officer, employee, or member of the fire department;

- (2) a family member of the officer, employee, or member of the fire department; or
  - (3) a family member of the spouse of the officer, employee, or member of the fire department.
- (b) In the event that subdivision (a) of this section prohibits an officer, employee, or member of the fire department from exercising or performing his or her official powers or duties:
- (1) if the officer has a deputy who is not prohibited by subdivision (a) from exercising or performing the power or duty, the deputy shall exercise or perform the power or duty; or
  - (2) in all other cases, the officer, employee, or member of the fire department must refer the matter to his or her immediate supervisor or, if the person does not have an immediate supervisor, the officer, employee, or member of the fire department must refer the matter to the fire board.
- (c) When a matter is referred to a person's immediate supervisor or to the fire board pursuant to subdivision (b) of this section, the power or duty shall be exercised or performed by the immediate supervisor or the fire board, or the immediate supervisor or the fire board may delegate the power or duty to one or more persons who are authorized to perform the function and not prohibited from doing so by subdivision (a) of this section.
- (d) This section does not prohibit an officer, employee or fire department member from performing a mandatory function that does not require the exercise of discretion.

### **11.8 HOLDING OF INVESTMENTS IN CONFLICT WITH OFFICIAL DUTIES.**

- (a) No officer, employee, or member of the fire department, may hold the following investments:
- (1) personal investments that will be directly affected by the exercise or performance of the person's official powers and duties; or
  - (2) personal 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 an officer, employee or fire department member from owning any of the following assets:
- (1) interest in real property located within the fire service area;
  - (2) interest in a business located within the fire service area;
  - (3) less than five percent of the stock of a publicly traded corporation doing business with the fire department; or
  - (4) bonds or notes issued by the fire department and acquired more than one year after the date on which the bonds or notes were originally issued.

**11.9 PRIVATE EMPLOYMENT IN CONFLICT WITH OFFICIAL DUTIES.**

- (a) No officer, employee, or member of the fire department, may accept employment or engage in any business or professional activity which:
  - (1) impairs the person's independence of judgment in the exercise or performance of his or her official powers and duties;
  - (2) is likely to require disclosure of confidential information gained by reason of serving as an officer, employee or fire department member; or
  - (3) requires representation of a person or organization other than the fire department in connection with litigation, negotiations or any other matter to which the fire department is a party.
- (b) No officer, employee or member of the fire department for monetary or other compensation may:
  - (1) represent another person or organization before the fire board or any other body or officer of the fire department;
  - (2) render services to another person or organization in relation to any matter which must come before the fire board or any other body or officer of the fire department; or
  - (3) render services to another person or organization in relation to any matter which is pending before fire board or any other body or officer of the fire department.
- (c) This section does not prohibit an officer, employee or fire department member from:
  - (1) representing him or herself, or his or her spouse or minor children before the fire board or any other body or officer of the fire department;
  - (2) asserting a claim against the fire department on his or her own behalf, or on behalf of his or her spouse or minor children; or
  - (3) performing services pursuant to a lawful and duly authorized contract with the fire department, provided, that if the consideration payable under the contract exceeds \$1,000, the contract was awarded through competitive bidding or some other competitive process.

**11.10 FUTURE EMPLOYMENT.**

- (a) No officer, employee, or member of the fire department, for the two-year period after serving as such officer, employee, or member of the fire department for monetary or other compensation may:
  - (1) represent another person or organization before the fire board or any other body or officer of the fire department;
  - (2) render services to another person or organization in connection with any matter which must come before the fire board or any other body or officer of the fire department; or
  - (3) render services to another person or organization in connection with any matter which is pending before the fire board or any other body or officer of the fire department.

- (b) No officer, employee, or member the fire department, at any time after serving as such officer, employee, or member of the fire department, may appear, practice or render services to another person or organization in connection with any particular matter in which he or she personally participated while serving as an officer, employee, or member of the fire department.
- (c) This section does not prohibit an officer, employee or fire department member from:
  - (1) representing him or herself, or his or her spouse or minor children before the fire board or any other body or officer of the fire department;
  - (2) asserting a claim against the fire department on his or her own behalf, or on behalf of his or her spouse or minor children; or
  - (3) performing services pursuant to a lawful and duly authorized contract with the fire department, provided, that if the consideration payable under the contract exceeds \$1,000, the contract was awarded through competitive bidding or some other competitive process.

#### **11.11 GIFTS.**

- (a) No officer, employee, or member of the fire department, may directly or indirectly solicit any gift.
- (b) No officer, employee, or member of the fire department, may accept or receive any gift, or multiple gifts from the same donor, having an aggregate value of seventy-five dollars or more when:
  - (1) it appears that the gift is intended to influence the officer, employee or fire department member in the exercise or performance of his or her official powers or duties;
  - (2) the gift could reasonably be expected to influence the officer, employee or fire department member 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, employee, or member of the fire department.
- (c) 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, employee or member during the twelve-month period preceding the receipt of the most recent gift.
- (d) A gift from a person or organization that:

- (1) seeks to contract with the fire district is presumed to be a gift that is intended to influence an officer, employee or fire department member in the exercise or performance of his or her official powers or duties.
  - (2) that has a contract with the fire department, or has had a contract with the fire district during the preceding twelve months, is presumed to be a gift intended as a reward for official action.
- (e) This section does not prohibit:
- (1) gifts made to the fire department;
  - (2) fund raising activities authorized by and pursuant to section 204-a of the General Municipal Law;
  - (3) gifts from a person with a family or personal relationship with the officer, employee or fire department member when the circumstances make it clear that it is that personal relationship, rather than the recipient's status as an officer, employee or fire department member, that is the primary motivating factor for the gift;
  - (4) gifts which are modest, reasonable and customary, given on special occasions, such as marriage, illness, or retirement;
  - (5) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
  - (6) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as an officer, employee or fire department member, or other service to the community; or
  - (7) payments of rewards authorized by law.

### **11.12 CONFIDENTIAL INFORMATION.**

No officer, employee, or member fire department, who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose such information unless the disclosure is required in the course of exercising or performing his or her official powers

### **11.13 DUTY TO THE ORGANIZATION**

Officers, employees, and members of the fire department shall discharge the duties of their respective positions in good faith and with that degree of:

- diligence,
- care,
- skill,
- obedience, and
- loyalty

which ordinarily prudent men or women would exercise under similar circumstances in like positions. Violation of these principles include, but are not limited to:

- Interfering with an officer in performance of that officer's duty
- Interfering with the person having command of an incident
- As a subordinate, refusing to comply with orders
- As a subordinate, giving counter orders
- Leaving the scene of an incident without permission
- Failing to comply with approved bylaw, policy, procedure, practice, or guideline
- Failing to answer promptly, truthfully, and completely an officer's question which is relevant to the fire department or its operation or its affairs
- Subverting a resolution of fire board
- Subverting the authority of an officer
- Disclosing private business of the fire department
- Disparaging the fire department, an officer, or a fire company
- Willfully damaging anything pertaining to the fire department
- Taking anything pertaining to the fire department
- Altering, defacing or damaging fire department records, including, but not limited to, attendance records
- Absenting oneself from duty, without specifying reasons for such absence
- Not attending at duly constituted meetings
- Rendering oneself incapable for duty from the too frequent use of an intoxicant
- Visiting fire department quarters in a state of intoxication
- Accepting an appointment on any special committee, and neglecting to attend to the duties thereof
- Shirking ones assignment

#### **11.14 BOARD OF ETHICS.**

- (a) There is hereby established a board of ethics for the fire department. The board of ethics shall consist of five persons, one member from each fire company at least one of whom must currently serve on fire board. Those on the board of ethics shall be appointed by the president of fire board and approved by fire board, serve at the pleasure of fire board, and receive no salary or compensation for their services on the board of ethics.
- (b) The board of ethics shall render written advisory opinions to officers, employees and fire department members with respect to this code of ethics. Such advisory opinions must be rendered pursuant to the written request of any such officer, employee, or fire department member under such rules and regulations as the board of ethics may prescribe. The board of ethics,

through the Legal Affairs Committee, if appointed, or through fire board, may request the advice of legal counsel employed by the fire board. In addition, upon the request of the fire board, the board of ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto.

#### **11.15 POSTING AND DISTRIBUTION.**

- (a) The fire board must promptly cause a copy of this code of ethics, and a copy of any amendment to this code of ethics, to be posted publicly and conspicuously in each building under the fire department's control. The code of ethics must be posted within ten days following the date on which the code takes effect. An amendment to the code of ethics must be posted within ten days following the date on which the amendment takes effect. Postings shall be for at least 90 days.
- (b) The president of fire board must promptly cause a copy, electronic or otherwise, of this code of ethics, including any amendments to the code, to be distributed to every person who is or becomes an employee, or member of the fire department.
- (c) Every employee, and member of the fire department who receives a copy of this code of ethics or an amendment to the code must acknowledge such receipt in writing. Such receipts must be filed with the secretary of the fire department who must maintain such receipts as a public record.
- (d) The failure to post this code of ethics or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of an employee or fire department member 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.

#### **11.16 ENFORCEMENT.**

Any officer, employee or member who violates this code of ethics may be fined, assigned a punishment, suspended, demoted, or removed from office, employment or membership in the fire department. A violation of this code is deemed "misconduct" within the meaning of section 209-1 of the General Municipal Law. For uncontested accusation of violation, the Chief Engineer shall investigate the matter and determine resolution up to and including removal from office, employment, or membership in the fire department. For contested accusation of violation, in accordance with section 209-1 of the General Municipal Law, fire board shall conduct a hearing and determine resolution.

#### **11.17 EFFECTIVE DATE.**

This code of ethics takes effect on the date of adoption.