

Introduced: _____ Adopted:
6/1/07 Reviewed: 8/19/13

The Boght Community Fire District Code of Ethics

WHEREAS, article 18 of the General Municipal Law prohibits the officers and employees of a fire district from having certain conflicts of interest;

WHEREAS, section 806 of the General Municipal Law, as amended by chapter 238 of the Law of 2006, requires the governing body of each fire district to adopt a code of ethics that applies to the officers and employees of the fire district, and to the volunteer members of the fire district fire departments;

WHEREAS, a code of ethics adopted by the board of fire commissioners of a fire district must set forth standards of conduct for the guidance of the officers and employees of the fire district, and the volunteer members of the fire district fire department, with respect to disclosure of interest 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.

NOW, THEREFORE, be it resolved that the board of fire commissioners of the Boght Community Fire District of the Town of Colonie, County of Albany hereby adopts a code of ethics to read as follows:

Code of Ethics of the Boght Community Fire District

Section 1. Purpose.

Officers and employees of the Boght Community Fire District, and the members of the fire district fire department, hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The board of fire commissioners recognizes that, in furtherance of the 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. "Contract" means any claim, amount or demand against or agreement with the fire district, express or implied, and shall include the designation of a depository of public funds and designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice or resolution or other proceeding where such publication is required or authorized by law.

B. "Employee" means a paid employee of the fire district including, but not limited to, paid firefighters.

C. "Family member" means a spouse, minor children and dependents.

D. "Fire district" means the Boght Community Fire District.

E. "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 district. 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. A fire district officer or employee shall not be deemed to have an interest in a contract of employment between the fire district of which he is an officer or employee and his spouse, minor child or dependent.

G. "Officer" means a person serving as a paid or volunteer officer of the fire district including, but not limited to, the members of the board of fire commissioners, treasurer, deputy treasurer, secretary, director of purchasing, and the chief and assistant chiefs of the fire district fire department.

Section 3. Applicability.

This code of ethics applies to the officers and employees of the fire district, and to the members of the fire district fire department. The provisions of this code of ethics shall apply in addition to all laws, including article 18 of the General Municipal Law, all rules or regulations of the board of fire commissioners, and all policies and procedures of the board of fire commissioners and the chief of the fire district fire department.

Section 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 or private business or any consideration other than the welfare of the fire district.

Section 5. Use of position for personal or private gain.

A. No officer or employee of the fire district, and no member of the fire district 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:

- all of the officers, employees or members of the fire district fire department;
- all of the members of a fire district fire company;
- 3. all of the eligible residents of the fire district or a duly established zone of the fire district; or
- 4. the general public.

B. No officer or employee of the fire district, and no member of the fire district fire department, may use or permit the use of fire district resources for personal or private purposes.

C. No officer or employee of the fire district, and no member of the fire district fire department, shall cause the fire district to spend more than is 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:

- responding to a fire or other emergency;
- voting to approve the fire district's annual budget;
- 3. authorizing or receiving lawful compensation for services as an officer or employee of the fire district;
- 4. authorizing or receiving lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee or fire department member in the performance of his or he 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 district 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.

Section 6. Holding of investments in conflict with official duties.

A. No officer or employee of the fire district, and no member of the fire district 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. real property located within the fire district or any other area served by the fire district fire department and used as his or her personal residence;
- 2. less than five percent of the stock of a publicly traded corporation; or
- 3. bonds or notes issued by the fire district and acquired more than one year after the date on which the bonds or notes were originally issued.

Section 7. Recusal and abstention.

A. Except as otherwise required by law, no officer or employee of the fire district, and no member of the fire district fire department, may 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 fire department member;
2. a spouse or dependant child of the officer, employee or fire department member.

B. In the event that subdivision (a) of this section prohibits an officer, employee or fire department member from exercising or performing his or her official powers or duties:

1. if the officer has a deputy who is not prohibited by subdivisions (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 fire department member must refer the matter to his or her immediate supervisor or, if the person does not have an immediate supervisor, the officer, employee or fire department member must refer the matter to the board of fire commissioners.

C. When a matter is referred to a person's immediate supervisor or to the board of fire commissioners pursuant to subdivision (b) of this section, the power or duty shall be exercised or performed by the immediate supervisor or the Board of Fire Commissioners, or the immediate supervisor or board of fire commissioners 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.

E. With regard to disciplinary matters that are not monetary in nature or to which the definition of interest herein would not apply and involve a possible conflict of interest for the officer, employee or fire department member authorized to perform duties within the disciplinary process, the decision on whether or not recuse oneself from participating in such process shall be a personal determination to be made by the officer, employee or fire department member. In such case the officer, employee or fire department member may seek the counsel and advice of district counsel.

Section 8. Disclosure of interest in legislation.

A. Every officer and employee of the fire district, and every member of the fire district fire department, must disclose the nature of any interest, in any matter coming before the board of fire commissioners for action, which any of the following people have:

1. the officer, employee or fire department member;
2. a family member of the officer, employee or fire department or member.

B. For purposes of this section, a "matter coming before the board of fire commissioners 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 board of fire commissioners. The board of fire commissioners must cause the disclosure to be included in the minutes of the meeting at which the disclosure is made. Once disclosure has been made with respect to an interest in a contract with a particular person, firm, corporation or association, no further disclosures need to be made with respect to additional contacts with the same party during the remainder of the year.

D. Disclosure is not required with respect to interests in the following actions by the board of fire commissioners:

1. adoption of the fire district's annual budget;
2. authorization of lawful compensation for services as an officer or employee of the fire district;
3. authorization of lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee or fire department member 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.

Section 9. Conflicts of interest.

A. No officer or employee of the fire district shall have any interest in any contract with the fire district of which he or she is an officer or employee, when such an officer or employee, individually or as a member of the board of fire commissioners, has the power or duty to negotiate, prepare, authorize or approve the contract or authorize or approve the payment thereunder.

B. No officer or employee of the fire district shall audit bills or claims under a contract in which such officer or employee has an interest.

C. No officer or employee of the fire district who has an interest in a contract shall appoint an officer or employee who shall have the power to negotiate, prepare, authorize or approve payment thereunder or audit bills or claims under such contract.

D. No fire district treasurer or deputy treasurer shall have an interest greater than 5% of the outstanding stock in a bank or trust company designated as a depository, paying agent, registered agent or for investment of funds of the fire district of which he or she is treasurer or deputy treasurer.

E. All fire district officers, employees and volunteer firefighters shall comply with the requirements of Article 18 of the General Municipal Law relative to conflicts of interests for local government personnel to the extent that they apply to fire district operations. To the extent that Article 18 of the General Municipal Law provides exceptions for certain types of conflicts of interest, those exceptions shall apply to this code. A copy of Article 18 of the General Municipal Law and this Code of Ethics shall be posted at the fire district office, at all buildings owned and operated by the fire district and shall be made available for review by all personnel. Article 18 of the General Municipal Law applies as follows in that regard:

Except as provided in section eight hundred two of this chapter, (1) no fire district officer or employee shall have an interest in any contract with the fire district of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder, (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or their deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the fire district of which they are an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any fire district officer or employee in one or more positions of public employment, the holding of which is not prohibited by law. (section 801). [“Fire District” substituted for “municipality” and “municipal” for the purposes of this code].

Section 10. Future employment.

A. No officer or employee of the fire district, and no member of the fire district fire department, and for the six months' period after serving as such officer, employee or department member, may:

1. represent another person or organization before the board of fire commissioners or any other body or officer of the fire district;
2. render services to another person or organization in connection with any matter which must come before the board of fire commissioners or any other body or officer of the fire district; or
3. render services to another person or organization in connection with any matter which is pending before the board of fire commissioners or any other body or officer of the fire district.

B. 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 board of fire commissioners or any other body or officer of the fire district;
2. asserting a claim against the fire district 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 district, provided, that if the consideration payable under the contract exceeds \$1,000, the contract was awarded through competitive bidding or some other competitive process.

Section 11. Confidential information.

No officer or employee of the fire district, and no member of the fire district 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 and duties.

Section 12. Gifts.

A. No officer or employee of the fire district, and no member of the fire district fire department, may directly or indirectly solicit any gift, that was intended as a reward for any official action on his or her part.

B. No officer or employee of the fire district, and no member of the fire district fire department, may accept or receive any gift, or multiple gifts, from the same donor, having a 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 fire department member.

C. This section does not prohibit:

1. gifts made to the fire district;
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 members 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.

Section 13. Posting and distributing.

A. The board of fire commissioners 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 district control. The code of ethics must be posted within ten days following the date on which the code takes effect. An amendment of the code of ethics must be posted within ten days following the date on which the amendment takes effect.

B. The chairman of the board of fire commissioners must promptly cause a copy of this code of ethics, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the fire district, or a member of the fire district fire department.

C. Every officer, employee, and fire department member 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 district 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.

Section 14. Enforcement.

Any officer, employee or member who violates this code of ethics may be suspended or removed from office, employment or membership in the fire department in the manner provided by law. A violation of this code is deemed "misconduct" within the meaning of section 209-1 of the General Municipal Law.

Section 15. Effective date.

This code of ethics takes effect on the first date of June, two thousand seven.