

O: 2018-08

AN ORDINANCE REPEALING CHAPTER 53 “ETHICS, Code of” AND REPLACED WITH A NEW  
CHAPTER 53 “MUNICIPAL ETHICS BOARD” OF THE CODE OF THE TOWN OF  
PHILLIPSBURG, NJ

WHEREAS the Town of Phillipsburg desires to create a Municipal Ethics Board in accordance with the provisions of the Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq.;

BE IT ORDAINED by the Municipal Council of the Town of Phillipsburg, in the County of Warren, State of New Jersey, as follows:

That Chapter 53, “ETHICS, Code of”, of the Code of the Town of Phillipsburg shall be repealed in its entirety and replaced with Chapter 53 “MUNICIPAL ETHICS BOARD” as follows:

§ 53-1 Findings:

The Phillipsburg Municipal council finds and declares that:

- A. Public office and employment are a public trust;
- B. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives;
- C. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled; and
- D. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties.

§ 53-2 – Purpose and Authority:

- A. It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the Town of Phillipsburg shall be clear, consistent, uniform in their application, enforceable, and to provide those officers or employees with advice and information concerning possible conflicts of interests which might arise in the conduct of their public duties.
- B. It is the further purpose of this chapter to implement the provisions of the Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq.
- C. This chapter is enacted under the authority of the Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq., and under the further authority granted to the Town of Phillipsburg under the provisions of Titles 40 and 40A of the New Jersey Statutes.

§ 53-3: Definitions

As used in this chapter:

"Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

"Interest" means the ownership or control of more than ten (10) percent of the profits, assets or stock of a business organization but shall not include the control of assets in a nonunion profit entity or labor union.

"Local Government Agency" means any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within the Town of Phillipsburg, and any independent local authority, including any entity created by or appointed under the authority of the Town of Phillipsburg, whether in conjunction with one or more other municipalities, which performs functions other than of a purely advisory nature; but shall not include a school board.

"Local Government Employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving Town, or any independent local authority or agency established by the Town, who is not a local government officer; but shall not mean any employee of a school district.

"Local Government Officer" means any person, whether compensated or not, whether part-time or full-time: (1) elected to any office of the Town, or any independent local authority or agency established by the Town; (2) serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal authority of the Town; or (4) who is a managerial executive or confidential employee of a local government agency of the Town; but shall not mean any employee of a school district or member of a school board.

"Local Government Officer and Employee" means a local government officer or local government employee of the Town of Phillipsburg, including, but not limited to, one of the following:

1. Mayor or Member of the council;
2. Town administrator;
3. Assistant administrator;
4. Department head;
5. Treasurer/Chief financial officer;
6. Tax collector;
7. Director, recreation commission;
8. Chief of police;
9. Captain of police;
10. Tax assessor;
11. Town clerk;

12. Town attorney;
13. Town engineer;
14. Town planning consultant;
15. Town auditor;
16. Municipal judge;
17. Municipal prosecutor;
18. Municipal public defender;
19. Planning board member;
20. Planning board attorney;
21. Board of adjustment member;
22. Board of adjustment attorney;
23. Director of public works;
24. Construction code official;
25. Zoning officer;
26. Director of social services;
27. Fire chief;
28. Trustee of the Phillipsburg Free Public Library;
29. Director of the Phillipsburg Free Public Library;
30. Any other person who is a managerial executive, or confidential employee, as defined in [Section 3](#) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-3, of the Town of Phillipsburg or of an agency created under the authority of or appointed by the Town of Phillipsburg.

"Member of immediate family" means the spouse or dependent child of a local government officer or employee residing in the same household.

§ 53-4 – Establishment; membership.

In accordance with the provisions of that certain law entitled “Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq.” there is hereby established a Municipal Ethics Board of the Town of Phillipsburg consisting of six members who shall be residents of the municipality, at least two of whom shall be public members. The members of the Ethics Board shall be appointed by the Municipal Council of the Town of Phillipsburg and shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the Ethics Board shall be of the same political party.

§ 53-5 – Terms; vacancy.

The members shall serve for a term of five years, except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years, and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the Ethics Board shall be filled in the same manner as the original appointment for the unexpired term.

§ 53-6 – Chairman.

The members of the Municipal Ethics Board shall annually elect a Chairman from among the membership.

§ 53-7 – Compensation.

The members of the Ethics Board shall serve without compensation but shall be reimbursed by the City for necessary expenses incurred in the performance of their duties under the Act. All necessary expenses incurred by the Municipal Ethics Board and its members shall be paid, upon certification of the Chairman, by the City Chief Financial Officer within the limits of funds appropriated by the Municipal Council by annual or emergency appropriations for those purposes. The Municipal Ethics Board may appoint employees, including independent counsel and clerical staff as are necessary to carry out the provisions of law within the limits of funds appropriated by the Municipal Council for such purpose.

§53-8 – Powers.

The municipal ethics board shall have the following powers:

- a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality;
- b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- c. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of the municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;
- d. To render advisory opinions to local government officers or employees serving the municipality as to whether a given set of facts and circumstances would constitute a violation of any provision of the municipal code of ethics or financial disclosure requirements;
- e. To enforce the provisions of the municipal code of ethics and financial disclosure requirements with regard to local government officers or employees serving the municipality and to impose penalties for the violation thereof as are authorized by this act; and
- f. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this act.

§53-9 – Municipal Code of Ethics Established.

Within 90 days after the establishment of a municipal ethics board, that ethics board shall promulgate by resolution a municipal code of ethics for all local government officers and employees serving the municipality. Local government officers and employees serving a municipal independent authority shall be deemed to be serving the municipality for purposes of this act.

§53-10 – Applicability of the Code of Ethics;

The Code of Ethics so adopted shall apply to all of the local government officers or employees of the Town of Phillipsburg , after proper notice and public hearing before the Ethics Board as required by N.J.S.A. 40A:9-22.21, as amended. The Code of Ethics shall take effect ten (10) days after the Ethics Board's public hearing thereon, if identical to the provisions set forth in N.J.S.A. 40A:9-22.5, or, if Local Finance Board approval is required, after sixty (60) days of approval by the Local Finance Board. The Ethics Board shall forward a copy of the Code of Ethics to the Town clerk, and shall make copies available to local government officers and employees serving the Town.

#### §53-11 – Financial Disclosure Statements

A. All local government officers of the Town of Phillipsburg shall annually file a financial disclosure statement. All financial disclosure statements shall include the following information which shall specify, where applicable, the name and address of each source and the local government officer's job title:

1. Each source of income, earned or unearned, exceeding two thousand dollars (\$2,000.00) received by the local government officer or a member of his or her immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his or her immediate family has an interest in the business organization;
2. Each source of fees and honorariums having an aggregate amount exceeding two hundred fifty dollars (\$250.00) from any single source for personal appearances, speeches or writings received by the local government officer or a member of his or her immediate family during the preceding calendar year;
3. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding four hundred dollars (\$400.00) from any single source, excluding relatives, received by the local government officer or a member of his or her immediate family during the preceding calendar year;
4. The name and address of all business organizations in which the local government officer or a member of his or her immediate family had an interest during the preceding calendar year; and
5. The address and brief description of all real property in the state in which the local government officer or a member of his or her immediate family held an interest during the preceding calendar year.

B. All financial disclosures shall be made utilizing the financial disclosure statement form promulgated by the New Jersey Local Finance Board, in accordance with the New Jersey Local Government Ethics Law. The Ethics Board shall make the forms available to the local government officers required to file a financial disclosure statement.

C. The original financial disclosure statement shall be filed with the municipal clerk, with a copy being provided to the ethics board, on or before April 30th of each year.

D. All financial disclosure statements filed shall be public records.

#### §53-12 – Advisory Opinion

Any local government officer or employee serving the Town may request and obtain from the Ethics Board an advisory opinion as to whether any proposed activity or conduct would, in its opinion, constitute a violation of the Town Code of Ethics or any financial disclosure requirements. Advisory opinions of the Ethics Board shall not be made public, except when the Ethics Board, by a vote of two-thirds of all of its members, directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the Ethics Board in directing that the opinion be made public specifically determines to disclose such name.

§53-13 - Complaints to the Ethics Board.

A. Upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the Town is in conflict with the Town Code of Ethics or financial disclosure requirements, the Ethics Board shall acknowledge receipt of the complaint within thirty (30) days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint.

B. The Ethics Board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the Ethics Board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing, and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. If the Ethics Board concludes that is within its jurisdiction, it shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint, and the facts and circumstances set forth therein.

C. The Ethics Board shall provide the officer or employee the opportunity to present any statements or information in response to the complaint.

D. If the Ethics Board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements, it shall conduct a hearing in the manner pursuant to §53-6 of this chapter, concerning the possible violation and any other facts and circumstances which may have come to its attention with respect to the conduct of the local government officer or employee.

E. The Ethics Board shall render a decision as to whether the conduct of the officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements. This decision shall be made by no less than two-thirds of all members of the Ethics Board.

F. If the Ethics Board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this chapter. A final decision of the Ethics Board may be appealed to the Local Finance Board within thirty (30) days of the decision.

§53-14 - Conduct of hearings.

All hearings required pursuant to this chapter shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a State agency in contested cases under the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq.

§53-15 - Violations and penalties.

A. An appointed local government officer or employee found guilty by the Ethics Board of the violation of any provision of this chapter or of the Code of Ethics in effect pursuant to this chapter, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. The Ethics Board shall report its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee and may recommend that further disciplinary action be taken.

B. An elected local government officer or employee found guilty by the Ethics Board of the violation of any provision of this chapter or of the Code of Ethics in effect pursuant to this chapter, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

C. The finding by the Ethics Board that an appointed local government officer or employee is guilty of the violation of the provisions of this chapter, or of the Code of Ethics in effect pursuant to this chapter, shall be sufficient cause for his removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is charged with violating the provisions of this chapter or the Code of Ethics in effect pursuant to this chapter, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

#### §53-16 - Preservation of records.

All statements, complaints, requests or other written materials filed with the Ethics Board under this chapter, and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this chapter shall be preserved by the Ethics Board for a period of at least five years from the date of filing or preparation, as the case may be.

#### §53-17 - Provisions for the Ethics Board.

A. The Town council of the Town of Phillipsburg shall provide Ethics Board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.

B. All necessary expenses incurred by the Ethics Board and its members shall be paid, upon certification of the chairman, by the municipal financial officer within the limits of funds appropriated by the Town council by annual or emergency appropriations for those purposes.

C. The Ethics Board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this chapter within the limits of funds appropriated by the Town council for those purposes.

BE IT FURTHER ORDAINED, if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated and the remainder of the Ordinance shall be deemed valid and effective.



BE IT FURTHER ORDAINED, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, this Ordinance shall take effect upon passage and publication in accordance with applicable law.

**Section Two.**

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section Three.**

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

**Section Four.**

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

**ATTEST:**

**TOWN OF PHILLIPSBURG**

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VICTORIA L. KLEINER, RMC  
Municipal Clerk  
DATED:

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STEPHEN R. ELLIS  
Mayor

**CERTIFICATION**

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their March 06, 2018 meeting.

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VICTORIA L. KLEINER,  
Municipal Clerk

First Reading 03-06-2018  
Second and Final reading 03-20-2018