

Chapter 17. ETHICS

Article I. Code of Ethics

[Adopted 7-8-1970 by L.L. No. 3-1970; amended in its entirety 4-3-1991 by L.L. No. 2-1991 (Ch. 24 of 1975 Code)]

§ 17-1. Legislative intent.

The Town Board of the Town of Mamaroneck recognizes that there are state statutory provisions mandating Towns to codify rules and standards of ethical conduct for employees and persons engaged in business with the Town which, when implemented and adhered to, will further enhance public confidence in local government. It is the purpose of this article to comply with state law, to create a Board of Ethics, to establish standards of conduct for employees, to prescribe certain disclosure by employees and persons engaged in business with the Town and to set forth functions of the Board of Ethics.

§ 17-2. Provisions implementing state law.

The standards, prohibited acts and procedures established by this article are promulgated in addition to any provisions prescribed by the State of New York and administrative rulings, common law rules and judicial decisions relating to the conduct of employees and not in derogation thereof.

§ 17-3. Board of Ethics.

[Amended 7-2-1997 by L.L. No. 9-1997; 4-22-2003 by L.L. No. 12-2003]

A majority of the members of the Board of Ethics shall be persons other than Town employees but shall include only one member who is an elected or appointed Town employee. There shall be no more than three members who are enrolled in the same political party as defined in the Election Law of the State of New York.

§ 17-4. Definitions.

For the purpose of this article, the terms used herein are defined as follows:

EMPLOYEE

Each officer, volunteer or employee of the Town of Mamaroneck, whether paid or unpaid, whether elected or appointed, whether serving in a full-time, part-time or advisory capacity. Volunteers whose responsibilities do not give rise to possible violations of these rules shall not be considered "employees" for the purpose of this article. The Town Board shall determine which volunteers shall be considered "employees" for this purpose.

SENSITIVE POSITION

The following positions entail potential conflicts of interest and are deemed to be sensitive positions:

[Amended 6-21-2000 by L.L. No. 8-2000; 10-16-2002 by L.L. No. 9-2002; 11-20-2002 by L.L. No. 11-2002; 12-20-2005 by L.L. No. 18-2005; 11-3-2010 by L.L. No. 8-2010; 1-18-2012 by L.L. No. 1-2012]

- A. Alternate member of the:
 - (1) Board of Appeals,
 - (2) Board of Architectural Review,
 - (3) Board of Assessment Review,
 - (4) Planning Board.
- B. Ambulance District Administrator.
- C. Assessor.
- D. Assistant Building Inspector.
- E. Assistant to the Town Administrator.
- F. Assistant Town Administrator.
- G. Assistant Town Superintendent of Highways.
- H. Building Inspector.
- I. Confidential Secretary to the Town Supervisor.
- J. Consulting Engineer.
- K. Counsel to the:
 - (1) Board of Appeals,
 - (2) Planning Board,
 - (3) Town.
- L. Court Clerk.
- M. Deputy Fire Chief.
- N. Deputy Town Assessor.
- O. Deputy Town Comptroller.
- P. Deputy Receiver of Taxes.
- Q. Deputy Town Supervisor.
- R. Deputy Town Clerk.

- S. Director of Building Code Enforcement and Land Use Administration.
- T Director- Section 8 Rental Assistance Program
- U. Environmental Coordinator.
- V. Environmental Planner
- W Fire Chief.
- X Fire Inspector.
- Y. General Foreman.
- Z. Junior Civil Engineer.
- AA. Member of the:
 - (1) Board of Appeals.
 - (2) Board of Architectural Review.
 - (3) Board of Assessment Review.
 - (4) Board of Ethics.
 - (5) Planning Board.
 - (6) Town Board.
- BB. Police Chief.
- CC. Real Property Appraiser.
- DD. Receiver of Taxes.
- EE. Record Officer/Police Department.
- FF. Senior Civil Engineer.
- GG. Senior Engineering Aide.
- HH. Senior Typist/Police Department.
- II. Superintendent of Highways.
- JJ. Superintendent of Recreation.
- KK. Technical Support Specialist (a/k/a IT Director and Webmaster).
- LL. Town Administrator.
- MM. Town Clerk.

- NN. Town Comptroller.
- OO. Town Engineer.
- PP. Town Justice.
- QQ. Town Prosecutor.

TOWN

Any board, commission, district, council, court or other agency, department, unit or subdivision of the government of the Town of Mamaroneck.

§ 17-5. Standards of conduct for employees.

Each employee shall endeavor to pursue a course of conduct that will avoid not only an actual conflict of interest but also the appearance of a conflict of interest, and each employee shall avoid engaging in any acts that would violate his/her public trust.

A.

Conflicts of interest.

(1)

No employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business, service, transaction or professional activity or incur any obligation of any nature that is or might reasonably appear to be in conflict with the proper and impartial discharge of his/her public duties.

(2)

No employee shall engage in any transaction as a representative or agent of the Town with any business entity in which he/she has a direct or indirect interest, financial or otherwise, if such transaction will conflict or would reasonably appear to conflict with the proper and impartial discharge of his/her public duties.

(3)

No employee shall solicit, negotiate for, accept or promise to accept employment by any person, firm or corporation with which the employee or his/her department is engaged in the transaction of business on behalf of the Town and which might reasonably appear to affect or impair his/her independence of judgment in the exercise of official duties.

(4)

Notwithstanding any other provision of this article, a) an employee may be compensated by the Town for services which the employee performs for the Town; and b) a business, by which the employee is employed or in which the employee or his/her spouse, parent or child has an interest, may be compensated by the Town for services which such business performs for the Town; provided that such employee or business follows the protocols contained in the Town's Administrative Manual promulgated by the Town Administrator. For the purpose of the preceding sentence, the term "Town" includes the Town's departments, boards, commissions, authorities and agencies.

[Added 1-18-2012 by L.L. No. 1-2012]

B.

Improper conduct.

(1)

No employee shall, except in the performance of his/her duties, use or attempt to use his/her official position to secure or deny privileges, benefits or exemptions for himself/herself or others nor shall an employee act so that a reasonable person might conclude that the employee intended to use his/her official position to secure or deny privileges, benefits or exemptions for himself/herself or others or that any person could improperly influence him/her in the performance of his/her official duties by offering the employee a privilege, benefit or exemption.

(2)

No employee, in the performance of his/her official duties, shall give any special consideration, treatment, favor or advantage to any citizen beyond that which is available to every other citizen.

C.

Treatment of confidential information.

(1)

No employee shall disclose confidential information acquired by him/her in the course of performing his/her public duties or use such information to further his/her private interests or the private interests of any other person or entity.

(2)

No employee shall accept employment or engage in any business or professional activity that will require him to disclose confidential information that he/she has gained by reason of his/her official position or authority.

D.

Use of Town property or employees.

(1)

No employee shall direct or cause any other employee to do or perform any service or work within the hours of employment by the Town where the service or work is outside the scope of his/her official duties or employment for the Town nor shall any Town employee perform such service or work.

(2)

No employee shall request or permit the use of Town-owned vehicles, equipment, materials or property for his/her own personal convenience or profit other than for the use of the employee in the conduct of his/her official duties.

E.

Solicitation or acceptance of gifts and favors. No employee shall solicit or accept any gift, favor or other thing of value, irrespective of form, either directly or indirectly, from any person, firm or corporation which the employee has a reasonable basis to believe is interested, directly or indirectly, in any matter or business dealing with the Town and under circumstances in which a reasonable person could infer that the gift or favor was intended to influence the employee in the performance of his/her official duties.

F.

Prohibited political activities. No paid employee or employee in a sensitive position shall solicit, directly or indirectly, any contribution of money, property or service for any Town political organization, campaign or candidate from a paid, nonelected employee. No paid, nonelected employee shall make any such contribution.

G.

Representation of private interests before the Town. No employee in a sensitive position shall represent an interest in a matter, either in support or in opposition, that is pending before the Town nor shall an employee in a sensitive position represent any party other than the Town in litigation in which the Town is a party. In this subsection, the term "employee" shall include any partner or employee of a partnership or shareholder or employee of a personal service corporation which represents such interest. Nothing contained herein shall be construed as prohibiting an employee from appearing before the Zoning Board on an application for a variance concerning his/her personal residence or from participating as a litigant against the Town.

H.

Future employment. No employee, after the termination of his/her public service to the Town, may represent a party or appear before the Town in connection with any matter, case or application in which he/she personally participated during the period of his/her Town service or which was pending or under consideration in the department in which the employee worked at the time of his/her Town service and of which the Town employee had personal knowledge. Employees in sensitive positions may not appear before any authority, board, commission or committee of the Town or the Justice Court of the Town on behalf of anyone, other than the employee himself/herself or a member of that employee's family, during the first 12 months after the employee no longer holds a sensitive position with the Town. In this subsection, the term "employee" shall include any partner or employee of a partnership or shareholder or an employee of a personal service corporation which represents such party or appears in such matter. This provision does not apply to investigations by the Town or court actions for which the employee might be asked to serve as a witness regarding actions during his/her Town service.

[Amended 4-13-2005 by L.L. No. 4-2005]

I.

Violations.

[Amended 1-18-2012 by L.L. No. 1-2012]

(1)

A charge for violating a provision of this article shall be brought by the Town Administrator. If the charge is against the Town Administrator, such charge shall be brought by the Supervisor.

(2)

For employees entitled to be disciplined pursuant to the New York Civil Service Law, a charge for violating a provision of this article shall be adjudicated in accordance with the New York Civil Service Law. All other such charges shall be heard by a person appointed by the Town Board who shall report his/her findings to the Town Board.

(3)

If the person conducting the hearing finds that the person charged violated a provision of this article, that person shall recommend a form of punishment which may be: i) a reprimand; ii) a fine not to exceed \$100; iii) suspension, without pay, for a period not to exceed two months; iv) demotion in grade and title; or v) dismissal from service. Based upon the record developed at the hearing, the Town Board may accept, reject or modify the hearing officer's findings of fact and conclusion as to whether the person charged violated a provision of this article. If the Town Board finds that the person charged did violate a provision of this article, it either: i) shall impose the punishment recommended by the hearing officer; or ii) shall impose one of the other possible disciplines listed above.

§ 17-6. Disclosure.

A.

Each employee in a sensitive position, on or before January 31 of each year, or if not in such a position on that date, then within 30 days after assuming such a position, and any employee requested at any time by the Board of Ethics to file a disclosure statement shall file a disclosure statement setting forth his/her property ownership in the Town and such information as to his/her employment and financial interests as may be set forth in a form prescribed by the Board of Ethics. The information requested of an employee may also include information about the employee's spouse or other person to whom the employee is related or with whom the employee has a business or financial relationship. Such form shall be filed with the Town Clerk's office and shall be available for inspection by all persons upon written request. Further information shall be filed by an employee in a sensitive position when reasonably requested by the Board of Ethics at any time. The employee shall promptly file a report of any change as to the information previously filed.

B.

On or before the date set forth in § 17-6A, each employee shall also file a statement on the form prescribed by the Board of Ethics stating that he/she has read the Code of Ethics and has not knowingly or willfully violated the Code of Ethics.

[Amended 7-2-1997 by L.L. No. 10-1997]

C.

Any employee who has a direct or indirect financial or other interest in any matter before the Town Board and who participates in any discussion before or makes a recommendation to or gives an opinion to the Town Board on that matter shall publicly disclose on the official record the nature and extent of such interest.

D.

Refusal by an employee to file a disclosure statement may be grounds for dismissal from employment or for other disciplinary action.

E.

Persons seeking to do business with the Town or engaged in business with the Town must inform the Town, in writing, about any contribution of money, property or service to any Town political organization, campaign or candidate. Failure of a person making such a contribution to inform the Town about it will be grounds for the Town's turning down a proposal for business or terminating existing business with such person.

§ 17-7. Functions of the Board of Ethics.

A.

Disclosure procedure.

(1)

Review of disclosure statements. The Board of Ethics shall review all employee disclosure statements. It shall consider possible conflicts of interest and render advisory opinions to the Town Board where conflicts of interest may exist.

(2)

Notification. An employee shall be notified by mail if the Board of Ethics requires clarification or has questions about his/her disclosure statement or intends to render an opinion that a conflict of interest may exist. The employee shall have an opportunity to file a written responses to such communication prior to the Board of Ethics' reporting a possible conflict of interest.

(3)

Personal conference. A personal conference with an employee shall be held if requested by the employee or by the Board of Ethics.

B.

Advisory opinions.

(1)

The Board of Ethics shall render advisory opinions to employees upon their written request and to the Town Board upon its written request.

(2)

An advisory opinion rendered at the request of an employee asking about a possible, prospective action or situation shall be confidential, and the identity of the employee shall not be disclosed if no action is taken by the employee in apparent violation of the code.

(3)

An advisory opinion rendered at the request of the Town Board shall be filed with the Town Board.

C.

Violations. The Board of Ethics shall refer apparent violations to the Counsel to the Town for appropriate action.

D.

Request for opinion of the Counsel to the Town. The Board of Ethics may consult with and request the opinion of the Counsel to the Town.

E.

Recommendations. Upon request of the Town Board, the Board of Ethics shall make recommendations to the Town Board as to any amendments of this article.

F.

Referral. The Board of Ethics may refer any matter within its jurisdiction to the County Ethics Board.

G.

Rules and regulations. The Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures, shall maintain appropriate records of its opinions and proceedings and shall make such reports as it believes useful.

§ 17-8. Copies distributed to employees; posting.

[Amended 11-3-2010 by L.L. No. 8-2010]

The Town Supervisor shall cause a copy of this article to be distributed to every Town employee. Each employee shall acknowledge receipt of a copy of this article and affirm that his/her compliance with its provisions is a condition of his/her employment or elected position. The failure to distribute a copy of this article to any employee shall not relieve that or any other employee from complying with this article. Nor shall such failure curtail or limit the Town's ability to enforce the provisions of this article. The Town Clerk shall post a copy of this article conspicuously on the sign board which the Town Clerk is required to affix on or near the main entrance to the Town Clerk's office. The failure to post this article shall have no effect on any employee's duty to comply with this article nor curtail or limit the Town's ability to enforce its provisions.

§ 17-9. Copy to be filed.

Within 30 days of the adoption of this article, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 17-10. Appropriation of funds.

The Town Board may appropriate necessary moneys from the general Town funds for the maintenance of and for the personnel services to the Board of Ethics established hereunder. The Board of Ethics may not, however, commit the expenditure of Town moneys except within the appropriations provided by the Town Board.

