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ARTICLE V. - CODE OF ETHICS [65]

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Sec. 2-5-106. - Purpose, intent, etc.

The common council of the City of White Plains recognizes that there are rules of conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this article to promulgate these rules of ethical conduct for the officers and employees of the city. This Article shall serve as a guide for official conduct of the officers and employees of the city. The rules of ethical conduct in this Article, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

(L.L. No. 3-1999, § 2, 12-6-99)

Sec. 2-5-107. - Definitions.

As used in this article, the following terms shall mean as indicated below:

- (a) *Interest:* A pecuniary or material benefit accruing to a municipal officer or employee, or a pecuniary or material benefit accruing to:
 - (1) The municipal officer's or employee's spouse, minor children and dependents;
 - (2) A firm, partnership or association of which such officer or employee is a member or employee;
 - (3) A corporation of which such officer or employee is an officer, director or employee; and
 - (4) A corporation any stock of which is accrued or controlled directly or indirectly by such officer or employee.
- (b) *Municipal officer or employee:* An officer or employee of the city, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer firefighter, civil defense volunteer, or auxiliary police.
- (c) *Social Hospitality:* Nominal expenses and inexpensive tokens that are generally regarded by custom and sound ethical practice to constitute appropriate forms of expressing friendship or good will.

(L.L. No. 3-1999, § 2, 12-6-99)

State law reference— Similar provisions, General Municipal Law, § 800.

Sec. 2-5-108. - Distribution of article.

- (c) An officer or employee whose conduct or action is the subject of the advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The board of ethics may amend a previously issued opinion after giving reasonable notice to the officer or employee that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the officer or employee.
- (d) All agencies of the City of White Plains and all officers, employees and agency members shall furnish to the board of ethics such data, information and statements as may in the opinion of the board be necessary for the necessary for the proper exercise of its functions, powers and duties as set forth in section 808 of the General Municipal Code.

(L.L. No. 3-1999, § 2, 12-6-99)

State law reference— Board of ethics authorized, General Municipal Law, § 808.

Sec. 2-5-111. - Additional powers of the board of ethics of the City of White Plains.

- (a) *Receipt and investigation of complaints.*
 - (1) In addition to the other powers and duties granted to the board of ethics, the board shall have the authority to receive from any person a written complaint questioning the compliance by any city officer or employee with the provisions of this article. The board of ethics may prescribe a form for such complaint.
 - (2) The written complaint must be signed, must include the individual complainant's address, and set forth in reasonable detail and documentation, if any, the facts alleged to constitute the violation (s).
 - (3) The written complaint shall be filed with the board of ethics. Upon receipt of said complaint, but in no event no later than five (5) business days after receipt, the board of ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the officer or employee who is the subject of the complaint and the corporation counsel.
 - (4) The board of ethics may on its own motion conduct an inquiry of an officer or employee's alleged non-compliance with provisions of this article upon receipt of substantial, reliable evidence, including, but not limited to, documents, written materials, or other forms of proof. In the event that the board of ethics should consider in its discretion to conduct such an inquiry, a two-thirds vote of the total voting membership of said board is required to initiate an inquiry.
 - (5) The board of ethics shall then conduct a preliminary written analysis of a complaint no later than thirty (30) days from the date the complaint is received. In the event that the board of ethics should find no probable cause for the complaint, the complaint shall be dismissed by the board of ethics sua sponte. Within three (3) business days thereof, the board of ethics shall then notify the complainant, the officer or employee who is the subject of the complaint and the corporation counsel of the disposition of the complaint.
 - (6) In the event that the board of ethics should find probable cause for the complaint, the board of ethics shall forward to the corporation counsel a copy of its written preliminary analysis together with any information and documentation acquired by the board of ethics regarding the complaint. The officer or employee and complainant shall be notified by the board of ethics that the complaint has been forwarded to the corporation counsel for further action and investigation in accordance with the provisions of this article.
 - (7) The corporation counsel shall render a written analysis of the complaint within fifteen (15) days of receipt from the board of ethics. In the event that the subject of the complaint is the mayor, the corporation counsel shall request special counsel to be appointed by the common council. Reasonable attorney's fees, costs and disbursements necessary to undertake action on the complaint and assist the board of ethics in any hearing pertaining to the complaint shall be an expense to the city. In the event that the subject of the complaint is the office of the corporation counsel, the board of ethics shall request special counsel to be appointed by the common council. Reasonable attorney's fees, costs and disbursements necessary to undertake action on the complaint and assist the board of ethics in any hearing pertaining to the complaint shall be an expense to the city.
 - (8) Upon receipt of the corporation counsel's or special counsel's analysis, as the case may be, the board of ethics shall proceed to conduct a full investigation of the complaint, including interviewing the officer or employee who is the subject of the complaint, and any necessary witnesses and requesting documents and other pertinent materials.
 - (9) Upon the request of a majority vote of the total voting membership of the board of ethics, the corporation counsel may issue subpoenas to compel the attendance of necessary witnesses and the production of documents and other materials pertinent to the investigation. The corporation counsel must state a specific and articulable reason(s) for denying any request by the board of ethics for the issuance of a subpoena(s).
 - (10)

In the event that the corporation counsel should refuse to issue a subpoena(s), the board of ethics may override the corporation counsel's determination and the corporation counsel shall issue subpoena(s) upon a two-thirds vote of the total voting membership of the board of ethics.

- (11) The officer or employee who is the subject of the complaint has the right to be represented by counsel at any required appearance before the board of ethics.
- (12) A copy of the transcript of the testimony provided by the officer or employee who is the subject of the complaint shall be provided at no cost to the officer or employee.
- (13) The board of ethics may require a written response from the officer or employee who is the subject of the complaint in lieu of an appearance before the board of ethics.
- (14) After a complaint has been filed and prior to any investigation undertaken of a complaint before the board of ethics, no member of the board of ethics or any of the board's authorized agents may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that:
 - a. The members of the board of ethics may obtain legal advice from the corporation counsel or special counsel as the case may be; and
 - b. The members of the board of ethics may discuss the complaint among themselves;
 - c. The complaint, records and other proceedings related thereto prior to the filing of charges or dismissal of the complaint are deemed confidential.

If any person attempts to influence a board of ethics member regarding the pending complaint, the board member shall report the substance of the communication to the board of ethics at the next regular meeting of the board of ethics.

(L L. No. 3-1999, § 2, 12-6-99)

Sec. 2-5-112. - Board of ethics actions.

- (a) Upon a full investigation, the board of ethics may take any action or combination of actions which it deems appropriate and which it is lawfully empowered to take, including, but not limited to the following:
 - (1) Dismiss the complaint based on a variety of grounds, including but limited to:
 - (i) The complaint does not allege facts sufficient to constitute a violation of this article;
 - (ii) The board of ethics has no jurisdiction over the matter;
 - (iii) Failure of the complainant to cooperate in the board of ethics' review and consideration of the complaint;
 - (iv) The complaint is defective in a manner which results in the board of ethics being unable to make any sound determination; or
 - (2) Determine that no violation of this article has occurred; or
 - (3) Determine that the complaint alleges facts sufficient to constitute a violation of this article and that the board of ethics will conduct a hearing, in which case, the board of ethics shall promptly send written notice of such determination to the accused and to the person who made the complaint; or
 - (4) Determine that further information must be obtained in order for the board of ethics to ascertain whether the complaint alleges facts sufficient to constitute a violation of this article; or
 - (5) Refer the complaint to any appropriate authorities for criminal investigation or prosecution.

(L L. No. 3-1999, § 2, 12-6-99)

Sec. 2-5-113. - Hearing before the board of ethics.

- (1) Upon a full investigation, if the board of ethics determines after a two-third's vote of the total voting membership of the Board that a hearing is warranted, the officer or employee who is the subject of the complaint shall be served with formal charges.
- (2) The officer or employee may file an answer to the formal charges within twenty (20) days of service of said charges. The failure to respond and/or file an answer shall be deemed a denial of all material allegations alleged in the charges.
- (3) If the answer disputes material factual allegations, the board of ethics shall direct that a hearing be held at a date certain, and if appropriate, a hearing officer be appointed by the board, at such compensation as may be agreed upon by the common council, to preside over the hearing and make findings of fact. If appropriate, special counsel may also be appointed on a case-by-case basis in accordance with section 244 of the Charter, subject to approval by the common council for compensation not to exceed five thousand dollars (\$5,000) unless a greater sum has been authorized or upon an additional request or requests by the corporation counsel, the common council may appropriate additional compensation.
- (4) Thirty (30) days after charges have been served, the charges and the answer, if any, shall be made public, unless otherwise stipulated by the parties or extended by an order of a court of competent jurisdiction.

- (5) The officer or employee may be represented by counsel at all stages of the hearing process.
- (6) At the earliest possible stage after the filing of charges, the parties are entitled to copies of all records that will be introduced at the hearing, written statements of any parties and/or witnesses to be called to testify by either party, and exculpatory evidence known to the board of ethics or its counsel.
- (7) At the request of a majority vote of the total voting membership of the board of ethics, the corporation counsel shall issue subpoena(s) to necessary witnesses required to appear at the hearing and for the production of documents and other materials pertinent to the hearing. The corporation counsel must state a specific and articulable reason(s) for denying any request by the board of Ethics for the issuance of a subpoena(s).
- (8) In the event that the corporation counsel should refuse to issue a subpoena(s), the board of ethics may override the corporation counsel's determination and compel the corporation counsel to issue subpoena (s) upon a two-thirds vote of the total voting membership of the board of ethics.
- (9) A transcript shall be made of the hearing and a copy provided to the officer or employee at no cost.
- (10) The standard of proof shall be clear and convincing evidence and the burden of proof upon the board of ethics.
- (11) After the hearing, counsel may present proposed findings of fact and conclusions of law.
- (12) Within thirty (30) days of receipt of such materials, the board shall render recommended findings and conclusions of law, transmit said report to the common council and file it with the city clerk for public review.
- (13) In lieu of a hearing, the officer or employee or the counsel designated by the board of ethics to present evidence in support of the charges, may submit to the board of ethics, a written, signed stipulation of facts and whether the conduct of the officer or employee has violated the city's code of ethics. The board may either accept the stipulation of a waiver of a hearing and be bound by the stipulation or reject the stipulation and order a hearing. If the stipulation is rejected by the board of ethics, it may not be introduced or used at the hearing.

(L.L. No 3-1999, § 2, 12-6-99)

Sec. 2-5-114. - Financial disclosure statements.

- (a) *Applicability.* The following classes of officers or employees of the City of White Plains shall be deemed "reporting officials" and shall be required to file financial disclosure statements as provided under this section:
 - (1) All elected officials;
 - (2) All commissioners and deputy commissioners;
 - (3) All department heads and assistant department heads;
 - (4) Members of the board of appeals, planning board, board of ethics and board of assessment review.
- (b) *General disclosure.* The financial disclosure statement to be filed by all officers and employees to whom this section is applicable shall be in substantially the form:

DISCLOSURE STATEMENT FOR THE REPORTING YEAR —

.....		
Last Name	First Name	Initial
.....		
Title	Department of Agency	
.....		
Work Address	Phone Number	
.....		
Home Address	Phone Number	

- A. Every question must be answered.
If the question to any answer is "none", please so indicate. If the question is inapplicable, please so indicate (i.e. "n/a"). If the answer is left blank, it will be returned for an answer.
- B. Use additional paper if necessary.
If additional space is needed, complete the response on extra sheets of paper and clearly identify the number of the question.
- C. Privacy request.
If there are circumstances in which a reporting official believes that answers to any questions should not be made public, the reporting official may request, upon submission of this completed form, that certain information be kept confidential.

D. Advice in answering questions.

A reporting official may request from the board of ethics advice as to the completion of this form or as to any question in this form. Question should be addressed to the board of ethics, in care of the corporation counsel.

E. Board members must complete items 1 through 8. Other reporting officials must complete all items.

Information to be provided is for the reporting year.

1. Real Estate Ownership. List the address of each piece of property in the City of White Plains that you or your spouse owned or had a financial interest in, including your primary residence.

As to investment property, provide the type and percentage of ownership by you or your spouse.

Owner's Name	Self or Spouse	Address	Investment or Primary Residence
.....			
.....			
.....			

2. Ownership Interests. List any entity in which you or your spouse had an Ownership interest, except a corporation of which you owned less than five percent (5%) of the outstanding stock. Identify the name and type of business, and list the relationship to the business (i.e., owner, partner, officer, director, member, employee, or shareholder).

Name of Business	Type of Business	Relationship to Business	Self or Spouse
.....			
.....			
.....			

3. Gifts. List all gifts that you or your spouse received last year from any entity or person, or agent or representative of such entity or person, who (i) within the past twenty-four (24) months has received or sought a financial benefit from the City of White Plains, has made an application to the City of White Plains, or has had business dealings with the City of White Plains or (ii) has a financial interest in any matter proposed or pending before the City of White Plains.

Gifts include, but are not limited to, tangible items of value, cash in any form, entertainment, any interest, security or item for which the donee paid less than fair consideration or did not pay for, expenses for trip or accommodations, or travel or accommodations provided at a cost of less than full value or at no cost, loans for which interest payments are deferred, no interest is paid, or interest is paid at less than prevailing rates, or other economic benefits, excluding earned income from wages derived from the City of White Plains.

Indicate whether the gift was received by you or your spouse.

Gift (Describe)	Approximate Value	Name of Donor	Self or Spouse
.....			
.....			
.....			

4. Loans. List all loans in excess of \$50.00, except those from commercial lending institutions, that you or your spouse has received from a subordinate of yours who is employed by the City of White Plains or from a source in any of the following categories: any person or entity, or agent or representative of person or entity, who (ii) within the past twenty-four (24) months has received or sought a financial benefit from the City of White Plains, has made an application to the City of White Plains, or has business dealings with the City of White Plains; or (ii) has a financial interest in any matter proposed or pending before the City of White Plains.

Name of Creditor	Description of Obligation	Amount	Self or Spouse
.....			
.....			

5. Political Positions Held. List any political office, political position (other than district leader) or membership on a political party committee that you held during the reporting year.

Position	Organization
.....	
.....	

6. Relatives Employed by the City of White Plains or by Businesses or Persons Doing Business with the City of White Plains. List any relatives in your immediate family (parents, children, spouse), whether they are living with you, employed by the City of White Plains or by persons or entities known by you to be doing business with the city.

Name of Employer	Name of Relative	Relationship	Position Held
.....			
.....			

7. Interest in City of White Plains Contracts. List any financial interest that you or your spouse had in any contract made or executed by the City of White Plains, excluding bonds and notes purchased on the open market.

Description of Interest	Self or Spouse
.....	
.....	

8. Client Disclosure. List the names of your or your firm's clients or customers known to you who had matters before your board or agency.

Name	Description of Matters
.....	
.....	

Members of the Board of Appeals, Planning Board, board of ethics and Board of Assessment Review Need Not Complete Items 9 and 10.

9. Earned Income. List the source and nature of any income from any source in excess of \$1000.00 that you earned in compensation for services rendered, or for goods sold or purchased, excluding a salary from the City of White Plains.

Do not list such unearned sources of income as interest, dividends, distributions, or capital gains, and do not provide amounts on earned income listed.

Source	Nature of Income
.....	
.....	

10. Agreements for Future Employment. List any assurances or promises of future employment you received during the reporting year from any person or enterprise engaged in business with the City of White Plains.

Future Prospective Employer	When Applicable
.....	
.....	

I attest under oath that all information given here is true and accurate to the best of my knowledge.

.....
(Signature)

Sworn to me this _____ day of _____, _____, _____ (year)	Please Print: Name
..... Notary Public Address

(c) *Doing business defined.* For purposes of this section, the entity shall be deemed to be "doing business with the City of White Plains" only if it shall, during the twenty-four (24) month period preceding the date of such disclosure statement, either have transacted any business involving one thousand dollars (\$1,000.00) or more with the City of White Plains, the White Plains Urban Renewal Agency, the White Plains Housing Authority, the White Plains Parking Authority, and any other agency or instrumentality of any of the foregoing or have made any application, petition, request for a variance, amendment, change of zoning, approval of a plat, exemption from plat or official map, license or permit, pursuant to the

provisions of, in or in connection with, any ordinance local law rule or regulation of the City of White Plains or any of its agencies or instrumentalities.

- (d) *Filing date.* The financial disclosure statement shall be made annually on or before January 31, with respect to the preceding calendar year. Any person required to file such statement who becomes so required upon election, appointment, promotion or otherwise, of any year after January 1st, shall file such statement within thirty (30) days of receipt of such statement. The said statement shall be prepared under oath on a form to be approved by the common council and filed with the board of ethics which shall, subject to the provisions of subsection (g) transmit same to the city clerk within fourteen (14) days after its receipt thereof. Any changes involving any of the matters set forth in the financial disclosure statement shall be reported in the same manner within thirty (30) days of such change.
- (e) *Privacy claims.* At the time of the filing of any disclosure statement, the officer or employee filing same may simultaneously file with the board of ethics, a written claim of privacy specifying with particularity those portions of the said statement which the officer or employee requests be deleted therefrom in the record thereof to be maintained by the city clerk. The board of ethics, prior to the transmission of such statement to the city clerk, shall delete any such item upon a finding that the same is of a highly personal nature, does not in any way relate to the duties of the position held by such person and does not create an actual or potential conflict of interest. The officer or employee shall have an opportunity to appear before the board of ethics in accordance with written procedures to be established by the board of ethics and filed with the common council and the city clerk.

(L.L. No. 3-1999, § 2, 12-6-99)

Sec. 2-5-115. - Claims, lawsuits, etc.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer or employee of any claim, account, demand or suit against the City of White Plains, or any agency thereof on behalf of him/herself or any member of his/her family arising out of any personal injury or property damage of for any lawful benefit authorized or permitted by law.

(L.L. No. 3-1999 § 2, 12-6-99)

Sec. 2-5-116. - Penalties.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any provision of this article may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

(L.L. No. 3-1999, § 2, 12-6-99)

Secs. 2-5-117—2-5-125. - Reserved.

FOOTNOTE(S):

⁽⁶⁵⁾ **Editor's note**— Local Law No. 3-1999, § 1, adopted Dec. 6, 1999, repealed Art. V, Code of ethics, §§ 2-5-106—2-5-113, and § 2 of that local law enacted a new Art. V, §§ 2-5-106—2-1-116, herein set out. Prior to repeal, former Art. V derived from ordinances adopted Sept. 21, 1970; July 29, 1974; Aug. 1, 1977; and Sept. 19, 1977. [\(Back\)](#)

⁽⁶⁵⁾ **State Law reference**— Power of council to adopt code of ethics, General Municipal Law, § 806. [\(Back\)](#)

Representation before any other agency for a contingent fee. An officer or employee shall not receive, or enter into any agreement, express or implied for compensation for services to be rendered in relation to any matter before any other agency of the City of White Plains, whereby the compensation for an officer or employee is to be dependent or contingent upon any action by such other agency with respect to such matter, provided that this subsection shall not prohibit the fixing of any time of fees based upon the reasonable value of the services rendered.

- (e) *Disclosure of interest in legislation.* To the extent that an officer or employee knows thereof, a member of the common council and any officer or employee of the City of White Plains, whether paid or unpaid, who participates in the discussion or gives an official opinion to the common council on any legislation before the common council shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest such officer or employee has in such legislation. For the purposes of this subsection only, "interest" shall include the officer or employee's immediate family, including parents, siblings and adult children.
- (f) *Investments in conflict with official duties.* An officer or employee shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties.
- (g) *Private employment.* An officer or employee shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of such officer's or employees official duties.
- (h) *Future employment.* An officer or employee shall not, after the termination of employment or service with the City of White Plains, appear before any board or agency of the City of White Plains in relation to any case, proceeding or application in which such officer or employee personally participated during the period of his or her service or employment or which was under his or her active consideration.
- (i) *Political conflict of interest.* He or she shall not as an elected or appointed and salaried officer of the City of White Plains, or a person appointed to fill out the unexpired term of an elected official, or a member of the planning board, board of appeals, board of assessment review, or board of ethics, other than as an election officer, and he or she shall not as an employee in the exempt position of the civil service, while so serving or employed, be an officer or member of a political committee, or be an officer of a political party (excluding a district leader), political club, or similar organization.

(L.L. No. 3-1999, § 2, 12-6-99)

Charter reference— City officers and employees not to be interested in contracts, § 29.

State law reference— *Similar provisions, General Municipal Law, § 805-a; conflicts of interest prohibited, General Municipal Law, § 801.*

Sec. 2-5-110. - Board of ethics.

- (a) There is hereby appointed a board of ethics consisting of five (5) members to be appointed by, and serve at the pleasure of the common council of the City of White Plains, all of whom shall reside in the City of White Plains. A majority of such members shall be persons other than officers or employees of the City of White Plains, but there shall be at least one (1) member who is an elected or appointed officer or employee of the City of White Plains. The city corporation counsel shall be a member ex-officio of such board or a city attorney designated by the corporation counsel shall be a member ex-officio of such board without the power to vote. The members of such board shall receive no salary or compensation for their services as members of such board and shall serve for terms of three (3) years each with the initial appointments being one (1) member for a term of one (1) year, two (2) members for terms of two (2) years, and two (2) members for terms of three (3) years. Any vacancy shall be filled in the same manner in which the original appointment was made and shall be made for the balance of the unexpired term. Such board shall not be constituted so that more than two (2) members shall belong to the same political party. The board of ethics each year shall elect from its membership its chairperson and secretary and upon its formation shall promulgate its own rules and regulations as to its forms and procedures and maintain proper records of its opinions and proceedings, for which expenses it shall be reimbursed by the City of White Plains for actual and necessary expenses incurred in the performance of its duties. Any member currently serving on the board of ethics prior to the effective date of this local law shall remain in his or her office until the expiration of his or her term of office.
- (b) The board of ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to officers and employees of the City of White Plains with respect to Article 18 of the General Municipal Law and any code of ethics adopted pursuant to such article under such rules and regulations as the board of ethics may prescribe. The advisory opinions are to be on ethics-related matters involving prospective conduct and may be requested only by the individual officer or employee whose conduct may be called into question. In addition to the aforementioned, the board of ethics may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon request of the common council.