

Town of Greenburgh, NY  
Monday, December 12, 2011

## Chapter 570. ETHICS, CODE OF

**[HISTORY: Adopted by the Town Board of the Town of Greenburgh 7-27-2007 by L.L. No. 8-2007.**

*Editor's Note: This local law superseded former Ch. 570, Ethics, Code of, adopted 4-10-1991 by L.L. No. 19-1991, as amended. Amendments noted where applicable.]*

### § 570-1. Declaration of policy.

Public service should be considered the highest calling of a citizen, and the public interest should take precedence over all private interests. To achieve these ends, a Town government should require that Public Officers, Employees and Agency Members be honest, fair and responsible to the people; that they exercise independent and impartial judgment; that they give their undivided allegiance to the public weal regardless of factionalism or transient political majorities; that public office and employment not be used for personal gain; that Public Officers, Employees and Agency Members observe in their official acts the highest standards of integrity and faithfully discharge their duties regardless of personal consideration; and that the public have confidence in its government and the Public Officers, Employees and Agency Members thereof, and that those Public Officers, Employees and Agency Members avoid even the appearance of impropriety. To avoid any appearance of impropriety, the Town Board desires to adopt a zero tolerance on the acceptance of any gift or contribution from a limited class of persons, such as Applicants, including their legal representatives and professional consultants, who seek approval from the Town for any matter of direct material financial benefit to such Applicant, and from parties having Contracts with the Town, for a limited duration. In recognition of these goals and to implement the Town's governmental interests, there is hereby established this chapter, which includes a Code of Ethics for Public Officers, Employees and Agency Members of the Town of Greenburgh (hereinafter sometimes referred to as the "Town"), and a Board of Ethics to render advisory opinions, reports and recommendations with respect thereto, to investigate alleged violations thereof and to facilitate compliance therewith.

### § 570-2. Applicability of other laws.

The rules, regulations, standards, prohibited acts and procedures herein set forth are in addition to any provision of Article 18 of the General Municipal Law or any other general or special law or canon relating to conflicts of interest, ethical conduct and Interest of Public Officers, Employees and Agency Members in Contracts and are also in addition to common law rules and judicial decisions relating thereto and to the rules and regulations of the Police Department to the extent the same are more severe or restrictive in their application than this chapter, except that the previous Code of Ethics adopted by the Town Board on April 10, 1991, is hereby amended. To the extent any other provision of law, rules, regulations or judicial decisions relating to conflicts of interest, ethical conduct and Interest of Public Officers, Employees and Agency Members in Contracts shall be more severe or restrictive in their application, they shall prevail over the provisions of this chapter, but not otherwise.

### § 570-3. Definitions.

A. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

#### **AFFILIATE**

(1) With respect to any person: household member, spouse, Domestic Partner, child, grandchild, dependent, parent, grandparent, brother and sister; (2) with respect to any Public Corporation: any person who is an owner of more than 5% of the outstanding equities securities of any class of the Public Corporation; and (3) with respect to any Legal Entity other than a Public Corporation: any person who is an owner of more than 2% of the equity of such Legal Entity.

#### **AGENCY**

The Antenna Review Board, Board of Assessment Review, Board of Ethics, East Hartsdale Avenue Contextual Review Committee, Hartsdale Public Parking District, Historic and Landmarks Preservation Board, Greenburgh Housing Authority, Library Board, Planning Board, Town Board, and Zoning Board of Appeals, and any other Town authority, board, bureau, commission, committee, entity or instrumentality thereof, not listed herein, that has decisionmaking responsibilities.

**AGENCY MEMBER**

A member of an Agency.

**APPLICANT**

Any person seeking employment, or any person or Legal Entity seeking other material financial benefit from the Town, or any person or Legal Entity filing an application for approval by any Public Officer, Employee or Agency for any matter of material financial benefit to such person or Legal Entity for a period commencing 12 months prior to the filing and ending 12 months after the application has been withdrawn or decided.

**APPOINTED OFFICER**

Every appointed official of the Town as defined in the Town Law, the Suburban Town Law, the General Municipal Law, the Public Officers Law or any other law referring to officers acting on behalf of the Town or any agency thereof and shall also include those persons employed by the Town on a full-time basis as department heads or deputy department heads or whose job categories are classified as exempt for civil service classification purposes.

**CANDIDATE**

An individual who announces that she/he seeks endorsement, designation, nomination or election for political office, or who opens a campaign account for elected office, or who registers as a candidate with the Board of Elections.

**COMPENSATION**

Any money, thing of value or financial benefit conferred, granted, given or awarded for services rendered or to be rendered.

**CONTRACT**

Any contract defined in Section 800 of the General Municipal Law.

**DOMESTIC PARTNER**

A person registered with a municipality as a domestic partner, or an adult involved in a relationship where neither party is currently married, neither party is related in a way that would bar marriage under New York State Law, both parties have been the other's sole domestic partner for a period of at least one year and intend to remain so indefinitely, both parties are in a relationship of mutual support, caring and commitment, and have assumed responsibility for each other's welfare, and both parties have been living together on a continuous basis for a period of at least one year.

**ELECTED OFFICER**

Every elected official of the Town, as defined in the Town Law, the Suburban Town Law, the General Municipal Law, the Public Officers Law or any other law referring to Public Officers acting on behalf of the Town.

**EMPLOYEE**

Any person directly employed on a full- or part-time basis by the Town or any agency thereof and compensated therefor except that the term "Employee" shall not include Public Officers or part-time independent contractors rendering services under special agreements of retention.

**INTEREST**

A pecuniary, financial, or other material benefit to a Public Officer, Employee or Agency Member, or any of her/his Affiliates.

**LEGAL ENTITY**

Any corporation, limited liability company, partnership, limited partnership, not-for-profit corporation, and any other entity recognized by the State of New York, but not including a political party or a political action committee.

**LOCAL POLITICAL PARTY OFFICIAL**

A local political party official as defined in General Municipal Law Section 810, as may hereafter be amended.

**PUBLIC CORPORATION**

A corporation, joint-stock association, Massachusetts business trust or other legally cognizable separate entity the securities of which are listed on a registered national securities exchange or registered under Section 12(g) of the Securities Exchange Act of 1934, or which entity is a registered investment company subject to the jurisdiction of the United States Securities and

Exchange Commission under the Investment Company Act of 1940, or successor provisions thereof as said statutes may hereafter respectively be from time to time amended.

**PUBLIC OFFICER**

Both elected and appointed officers as herein defined, unless otherwise indicated.

**TOWN**

The Town of Greenburgh, a municipal corporation, and the geographical environs thereof where the context warrants, and said corporation shall include any Agency, department, office, entity or other subdivision of local municipal government and any fire protection district, park, parking, recreation, sewer, sidewalk, street, water or other improvement district of or in any part within the unincorporated area of the town created by law or having any personnel or governing body appointed by the Town Board, or, where authorized, the Supervisor or Council members.

B. Word usage. The singular shall include the plural and vice versa. The term "shall" is mandatory.

**§ 570-4. Standards of conduct.**

Except as provided in § 570-5 of this chapter, every Public Officer, Employee and Agency Member of the Town shall be subject to and abide by the following standards of conduct.

A. Gifts and solicitations.

(1) Prohibited acts:

- (a) No Public Officer, Employee or Agency Member shall, directly or indirectly, solicit or accept any gift or item of personal or real property or any contribution or donation from any person or Legal Entity on Town property, other than for and on behalf of the Town.
- (b) No Elected Officer shall, directly or indirectly, solicit or accept any gift or item of personal or real property or any contribution or donation from any Appointed Officer or Employee, and no Elected Officer shall, directly or indirectly, solicit any gift or item of personal or real property or any contribution or donation from Agency Members.
- (c) No Appointed Officer shall, directly or indirectly, solicit or accept any gift or item of personal or real property or any contribution or donation from any Employee, and no Appointed Officer shall, directly or indirectly, solicit any gift or item of personal or real property or any contribution or donation from Agency Members.
- (d) No Agency Member shall, directly or indirectly, solicit or accept any gift or item of personal or real property or any contribution or donation from an Employee.

- (2) No Public Officer, Employee or Agency Member shall, directly or indirectly, solicit, accept, receive any gift or item of personal or real property or any Interest therein whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift or item of personal or real property or Interest therein was intended to influence her/him in the performance of her/his official duties; could reasonably be expected to influence her/him in the performance of her/his official duties; or was intended as a reward for any official action on her/his part.
- (3) Nothing in § 570-4 shall prohibit soliciting or accepting gifts or donations for fundraisers for the benefit of Internal Revenue Service Section 501(c)(3) organizations, provided that a Public Officer cannot solicit any such gift from an Employee; or from soliciting or accepting gifts or donations for special occasions, such as weddings, birthdays, birth of a child, sickness, retirement, and holidays, provided that a Public Officer cannot solicit any such gift from an Employee and provided further that no individual shall gift or donate more than \$75 for any one such special occasion.
- (4) Nothing in § 570-4 shall prohibit any Public Officer, Agency Member or Employee permitted to perform marriage ceremonies pursuant to the Domestic Relations Law from accepting a gift or benefit having a value of \$75 or less for the solemnization of a marriage by such Public Officer or Employee any place within the territorial boundaries of the Town.

- B. Abuse of confidential information. No Officer, Employee or Agency Member shall use confidential information acquired by her/him in the course of her/his official duties for the purpose of furthering her/his Interests either during or after her/his term of office or period of service.
- C. Interest in Town Contracts. No Public Officer, Employee or Agency Member shall receive Compensation or enter into any agreement, expressed or implied, in connection with or have an Interest in, directly or indirectly, any Contract or agreement with the Town or any of its Agencies unless such Compensation or Interest is first fully disclosed to and approved by the Town Board at a regular public meeting. (See exceptions in § 570-5.)
- D. Disclosure of political contributions and Interest in legislation, Contracts and official action. To the extent that she/he knows thereof, any Public Officer and/or Employee of the Town, and an Agency Member with respect to matters in which she/he participates or in which her/his Agency is involved in the decisionmaking process, shall specifically and fully disclose on the official record of the Town Board at a regular public meeting thereof the nature and extent of any direct or indirect Interest in legislation, Contracts or official action pending before the Town Board, the Planning Board or the Zoning Board of Appeals or before any Agency of the Town. Such public disclosure by the Public Officer, Employee or Agency Member shall include disclosure of any political contributions made by any Applicant, his/her consultants or legal representatives or their Affiliates for the period commencing 12 months prior to the filing of the application and ending 12 months after a final decision has been made. However, no disclosure shall be required at any time under this subsection of any political contributions made by persons who are not Applicants or their consultants or legal representatives, or their Affiliates.
- E. Representation before Town agencies. No Public Officer or Employee of the Town shall receive Compensation in connection with, have an Interest in or enter into, directly or indirectly, any Contract or agreement, expressed or implied, to render or furnish any services in connection with any matter before the Town. No Agency Member shall receive Compensation in connection with, have an Interest in or enter into, directly or indirectly, any Contract or agreement, expressed or implied, to render or furnish any services in connection with any matter before the Agency on which she/he serves or which might reasonably be expected to come before the same. (See exceptions in § 570-5.)
- F. Interest in depository. The Supervisor, Comptroller, Deputy Comptroller and Employees in the Comptroller's Department shall not have any Interest, direct or indirect, in a bank or trust company designated as a depository paying agent, registration agent or for investment of funds of the Town; provided, however, that a personal checking account or other personal banking relationship maintained in the regular course of business on no more favorable terms than those extended to the general public shall not be prohibited by this section.
- G. Private employment. No Public Officer, Employee or Agency Member shall engage in, solicit, negotiate for, promise to accept, accept or perform private employment, furnish goods or render services for private interests when such employment or service creates or may reasonably create a conflict with or impairs or may reasonably impair the proper and impartial discharge of her/his official duties. (See exceptions in § 570-5.)
- H. Post Town employment/service. No Public Officer, Employee or Agency Member shall, after the termination of service or employment with the Town, and for a period of two years thereafter, appear before the Town Board, or any Agency of the Town on behalf of any person or Legal Entity or interest other than the Town or its Agencies in relation to any case, matter, proceeding or application, or for a period of seven years thereafter, in relation to any case, matter, proceeding or application in which she/he participated in any way as such Public Officer, Employee or Agency Member, or, in the case of Employees and Agency Members, which was pending in or before her/his department or Agency during her/his tenure of office or employment. (See exceptions in § 570-5.)
- I. Investments; conflict with official duties. No Public Officer, Employee or Agency Member shall invest or hold any Interest, directly or indirectly, in any financial business or commercial or private transaction which creates a conflict with or reasonably may create a conflict with or impairs or reasonably may impair the proper discharge of her/his official duties. (See exceptions in § 570-5.)
- J. Representation of private interests. No Public Officer, Employee or Agency Member shall receive Compensation, directly or indirectly, for representing any private interests before any Town Agency,

nor shall any Public Officer, Employee or Agency Member represent an adverse party in any matter in which the Town is a party or complainant except that she/he may represent herself/himself in any matter in which the Town is an adverse party or complainant. This shall not prevent the Town Attorney or Deputy Town Attorneys from appearing in any court or before any administrative agency on behalf of the Town, its Agencies or on behalf of a person united in interest with the Town. (See exceptions in § 570-5.)

K. Additional standards for Town Attorney. The Town Attorney and Deputy Town Attorneys are prohibited from exercising any discretion in any matter of Town Interest which shall involve any person or Legal Entity who or which was a client of her/his or a law firm of which she/he was a member or Employee during one year prior to the time that said matter is handled by the office of the Town Attorney. This, however, shall not prevent the assignment of such a matter to another attorney in the Town Attorney's office who has had no Interest in such matter, provided that, in the event the Town Attorney shall be so disqualified, the Deputy Town Attorney to whom the matter is assigned shall report directly to the Supervisor with respect thereto. Any law firm of which the Town Attorney or any Deputy Town Attorney shall be a member, associate attorney, counsel or employee shall not practice before the Town or any Agency of the Town while such member, associate attorney, counsel or employee is an Employee or Appointed Officer of the Town.

L. Additional Standards for Public Officers and Agency Members.

- (1) No member of the Planning Board or Zoning Board of Appeals shall participate directly or indirectly, including as an advocate for or against an application, in any decision involving any matter before the board on which she/he serves as a member, and in which she/he may have an Interest, directly or indirectly, or wherein she/he does or may have done business other than ordinary retail purchases of goods and services with the Applicant or his/her Affiliates or with any party having an Interest in such matter during her/his tenure as a member of said Board and for a five-year period prior to her/his appointment to such Board, except as provided in § 570-4L(3) below.
- (2) Immediately upon learning of such application or matter before the Planning Board or Zoning Board of Appeals, said member shall promptly disclose her/his relationship with such Applicant or interested party and withdraw from any participation in the decisionmaking process, including participation in any public hearing, informational meeting or any discussions at any executive session relating to such matter.
- (3) No Agency Member who has recused herself/himself shall participate in the decisionmaking process or participate as a member of the public as an advocate before the Agency on which she/he serves for or against the application, except with respect to any property in which she/he has an Interest.
- (4) No member of the Town Board shall participate as an advocate before the Planning Board or Zoning Board of Appeals for or against any application, except with respect to any property in which she/he has an Interest.

M. Additional standards for Tax Assessors. Public Officers and Employees of the Tax Assessor's office shall not engage in the business of real estate or receive or benefit from, directly or indirectly, any fees or commissions involving the sale of real property in the Town or the disposition of any real property in the Town, including the settlement of tax certiorari claims. (See exceptions in § 570-5.)

N. Additional standards for Building Department and Department of Community Development and Conservation Public Officers and Employees. No Public Officer or Employee of the Building Department or Department of Community Development and Conservation shall engage within the territorial limits of the unincorporated area of the Town in the legal, real estate, insurance, building contracting or building materials, architectural, community development or planning or engineering businesses during her/his tenure or term of office. This shall not prevent such Public Officer or Employee who has a professional or real estate license or an insurance license in effect at the time she/he became a Public Officer or Employee from continuing such license in effect. No Public Officer or Employee of the Building Department or Department of Community Development and Conservation shall exercise any discretion or act upon any matter of concern to the Town which shall involve any business or business matters in which she/he has an Interest. (See exceptions in § 570-5.)

O. Additional standards for members of the Building Department, Bureau of Engineering, Department of Community Development and Conservation, and Office of the Town Clerk. The Building Inspector and the Commissioner of Community Development and Conservation shall be responsible for ensuring members of their department maintain an accurate updated computerized list, by permit or case number, of the names and addresses of all Applicants and the names and addresses of each Applicant's known legal representatives and professional consultants. The Town Engineer is similarly responsible for applications received for her/his approval. Each month, by the first day of the month, the updated list shall be forwarded by hard copy and e-mail to the Town Clerk. Applications which have received final approval during the month shall have the approval date shown on the end-of-month spreadsheet and be deleted from subsequent monthly reports. A hard copy of the letterhead, if available, of any law or consultant firm associated with an application shall also be forwarded to the Town Clerk. The Town Engineer shall be similarly responsible for applications presented to her/him. The Town Clerk shall maintain the list of the names and addresses of all current Applicants, their legal representatives and professional consultants, and add to the list any Applicants and their legal representatives and professional consultants seeking appeals of permits denied by the Town Clerk. The names and addresses associated with an application shall not be removed from the Town Clerk's compiled list until one year after final approval of the application. The list shall be made available for public inspection upon request.

#### **§ 570-5. Exceptions.**

The provisions of § 570-4C, E, G, H, I, J, L, M and N of this chapter shall not apply to:

- A. The purchase, sale or condemnation by the Town of real property or an Interest therein, provided that the same and the consideration therefor is approved by the Supreme Court upon petition of the Town Board.
- B. A Contract with a public corporation in which a Public Officer, Employee or Agency Member has an Interest solely by reason of equity securities when the equity securities of the corporation are publicly held and traded on the New York or American Stock Exchange and not more than 5% of the outstanding stock of the corporation is owned, of record or beneficially, or controlled, directly or indirectly, by such Public Officer, Employee or Agency Member; provided, however, that this exception shall not apply to stockholdings of the Comptroller, Supervisor, Deputy Supervisor or Town Attorney in a bank or trust company designated as a depository of Town funds.
- C. A Contract for the furnishing of public utility services when the rates or charges therefor are fixed or regulated by the Public Service Commission or a Contract with a hospital, clinic, laboratory or other similar institution for services and facilities under Article 11 of the Mental Hygiene Law.
- D. The timely filing by a present or former Public Officer, Employee or Agency Member of any claim, act, demand or suit against the Town or instrumentality thereof, or Employee thereof, on behalf of herself/himself or any member of her/his family, arising out of any personal injury or property damage or any lawful benefit or right authorized or permitted by law.
- E. The application by a Public Officer, Employee or Agency Member for a change of zoning, zoning variance, subdivision approval or special permit with respect to real property owned by such Public Officer, Employee or Agency Member or in which she/he may have an Interest; provided, however, that such ownership and/or Interest is publicly disclosed, made a matter of record before the Town Board, Planning Board or Zoning Board of Appeals and referred to in any notice given by publication or mailing of such proceedings.
- F. The sale of bonds and notes pursuant to § 60.10 of the Local Finance Law.
- G. The designation of a newspaper for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law, provided that no Public Officer, Employee or Agency Member shall have any Interest in any such newspaper.

#### **§ 570-6. Use of Town-owned equipment or property.**

No Public Officer, Employee or Agency Member shall request, obtain, permit the use of or use Town-owned vehicles, equipment, buildings, material or property for personal convenience, Interest, use or benefit or the personal convenience, use or benefit of others, except when such services are available to the public generally

or are specifically provided by the Town Board for the use of such Public Officer, Employee or Agency Member in the conduct of official business.

**§ 570-7. Prohibited political activities.**

A. Contributions.

- (1) No Public Officer or Agency Member shall, directly or indirectly, solicit or accept any contribution or money, services or thing of value for any political party, campaign committee or any Candidate from any Appointed Officer or Employee or from any Applicant or from an Applicant's Affiliates or from an Applicant's legal representatives or professional consultants or their respective Affiliates. No Public Officer, Employee or Agency Member shall, directly or indirectly, use her/his authority or official influence to compel or induce any other Public Officer, Employee or Agency Member or Applicant or any Affiliate thereof or an Applicant's legal representatives or professional consultants or their respective Affiliates to pay, promise to pay, or make any political assessment, subscription or contribution of money, services or thing of value. The provisions of this subsection also shall apply to any Applicant who had, within the prior 12 months from the time in question, an application pending covered by the previous sentence, the Applicant's Affiliates, and the Applicant's legal representatives or professional consultants and their respective Affiliates.
- (2) No Employee who has provisional or permanent civil service status or who is a member of a collective bargaining unit covered by a collective bargaining agreement to which the Town is a party shall solicit or receive, directly or indirectly, any contribution for any political party, campaign committee or any Candidate for Town office.
- (3) No Public Officer, Employee or Agency Member shall, directly or indirectly, solicit or accept any contribution of money, services or thing of value for any political party, campaign committee or any Candidate for Public Office from any person or Legal Entity, or any Affiliates thereof, having a Contract with the Town.

B. No Appointed Officer, nor any Employee of the Town and no member of the Board of Ethics, appointed pursuant to § 570-11 of this chapter, or Zoning Board of Appeals or the Planning Board and no Agency Member who receives Compensation for her/his services shall hold any county, city, town, village, state or federal public (political) office or position representing the Town, or hold office or position in any political organization within the Town. For purposes of this section the word "position" shall mean one which entails direct contact with the electorate in the Town.

C. Nothing contained in this chapter shall prohibit any Public Officer, Employee or Agency Member from holding a school or fire district office or from fully participating in the activities of such districts.

D. Nothing contained in this chapter shall prohibit any Public Officer, Employee or Agency Member from holding or expressing a political opinion or from affiliating with any political party or organization of her/his choice, or from Elected Officials and Agency Members voluntarily and without solicitation making a contribution thereto or to a candidate or candidates of her/his choice.

**§ 570-8. Financial disclosure.**

A. Each Public Officer, Local Political Party Official and each Candidate for local elected office, as defined in General Municipal Law § 812, as well as each Employee and Agency Member with decisionmaking authority on applications or requests that are not exclusively ministerial shall file an annual statement of financial disclosure with the Greenburgh Board of Ethics containing the information and in the form set forth in Appendix A attached. *Editor's Note: Appendix A is included at the end of this chapter.* Such statement shall be filed on or before the 15th day of May with respect to the preceding calendar year. The Board of Ethics shall report to the Town Clerk anyone required to file the Annual Statement of Financial Disclosure for the Town of Greenburgh who fails to file the form within 30 days of the due date therefor, and the Town Clerk shall notify such persons by certified mail, if the address is known, and then 10 days thereafter, if the filing has not been received, shall post such information on the Town's Web site until such filing is made. A local form entitled "Annual Statement of Financial Disclosure For   (year)  " is hereby adopted as the form in which said statements shall be made and filed. A copy of said form is annexed to this chapter as Appendix A.

- B. For Elected Officials and Candidates, a second annual disclosure statement shall be required to be filed by September 1, 2007, disclosing all campaign contributions accepted after August 1, 2006, from Applicants, as well as their legal representatives, professional consultants, and each of their Affiliates, who had business before the Town within 12 months of the date of the contribution. By August 1 of each subsequent year, Elected Officials shall file a statement under oath that all contributions received in the prior 12 months were in compliance with this chapter.
- C. The Annual Statement of Financial Disclosure required by § 570-8 shall be kept current through the filing of additional written statements under oath within 30 days of any real estate transaction.
- D. The statements required by § 570-8 shall be open to public inspection.
- E. The Town Board shall determine the list of persons who are subject to the disclosure requirements of this Section. The distribution and receipt of the disclosure statements required by this Section shall be administered for the Board of Ethics by the Town Attorney's Office. Received disclosure statements shall be reviewed by the Office of the Town Attorney, except that the Board of Ethics shall review the statements filed by Elected Officers, Local Political Party Officials and Candidates.
- F. When an *ad hoc* committee or an individual person is appointed, the appointment shall state whether the appointee(s) are subject to the Code of Ethics and, if so, whether the financial disclosure provisions of § 570-8 are to be applicable to such appointee(s).

#### **§ 570-9. Penalties for offenses.**

The Board of Ethics is empowered, if it finds in an opinion or report that this Code of Ethics or Article 18 of the General Municipal Law has been violated, to make recommendations to the Town Board. These recommendations may include, but are not limited to, return of improperly solicited or received political contributions or gifts, and may include interest thereon; enforcement of any of the penalties specified in Subsections A through D of this § 570-9; referral to other governmental authorities; and any other procedural, referral or remedial action which the Board of Ethics deems appropriate under the circumstances.

- A. Forfeiture of pay, suspension or removal. A violation of any of the provisions of this chapter shall constitute cause for forfeiture of pay, suspension, demotion or removal from office or employment pursuant to the procedures set forth in Article 75 of the Civil Service Law and Article 3 of the Public Officers Law.
- B. Contracts voided. Any Contract knowingly entered into by or with the Town or any agency thereof in which there is an Interest prohibited by this chapter shall be null, void and wholly unenforceable at the option of the Town, which option shall be exercised, if at all, at a regular or special meeting of the Town Board upon notice to all contracting parties within six months of the discovery of such Interest.
- C. Fine. In addition to any of the foregoing penalties, any Public Officer, Employee or Agency Member who willfully and knowingly violates the foregoing provisions of this chapter shall be guilty of an offense punishable by a fine not in excess of \$250.
- D. Any Public Officer, Employee or Agency Member convicted of a misdemeanor or a felony which occurs during the time such individual is a Public Officer, Employee or Agency Member of the Town shall be deemed to be in violation of this chapter.

#### **§ 570-10. Promulgation of Code of Ethics.**

- A. The Town Board shall cause the Office of the Town Attorney to distribute a copy of the Code of Ethics to each Appointed Officer and Employee upon employment with the Town and at least once every three years thereafter while employed by the Town.
- B. The Town Clerk shall distribute a copy of the Code of Ethics to each Elected Officer and Agency Member upon taking office and at least once every three years thereafter while in such office.
- C. Each person or legal entity having a contract with the Town providing for payments in excess of \$100,000 shall be given a copy of the Code of Ethics by the Town Attorney's Office and be required to acknowledge receipt thereof in writing.

- D. When there are substantial amendments to the Code of Ethics, the Town Board shall instruct that the revised Code of Ethics shall be distributed in addition to the foregoing requirements.
- E. Each Public Officer, Employee or Agency Member shall acknowledge in writing by a statement filed of public record in the office of the Town Clerk that she/he has received a copy of this code.
- F. The Town Attorney's Office shall develop training materials and/or programs with respect to the Code of Ethics. Such materials shall be submitted to the Board of Ethics for review. Each person who is required to file financial disclosure statements under § 570-8 (other than Local Political Party Officials and candidates) shall be required to attend a Code of Ethics training program conducted by the Town Attorney's Office at least once every two years.

**§ 570-11. Board of Ethics.**

A. Membership.

- (1) A Board of Ethics is hereby established, to be composed of five residents of the Town appointed by the Town Board. Up to one member of such Board may be an elected or appointed Public Officer or Employee of the Town. 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 five years each. The length of term of five years is established to be equal to the number of members so that the term of one member and only one member shall terminate at the end of each calendar year. Upon the initial passage of this subsection, some of the initial appointments or reappointments to the Board shall be for terms of less than five years so that the term of one member will expire each year.

**[Amended 2-25-2009 by L.L. No. 3-2009]**

- (2) Any member of the Board of Ethics who is a Public Officer or Employee is excused from other work duties during the duration of the time required to attend meetings of the Board of Ethics if held during normal work hours of such Public Officer or Employee, and the Public Officer or Employee shall not be required to perform compensatory work for such time, provided scheduling and availability for meetings is worked out with her/his immediate supervisor, who shall take reasonable measures to accommodate the Board's scheduling.
- B. Such Board of Ethics shall not be constituted of a majority of any political party in the Town. Board of Ethics candidates registered in a political party must be registered in that party for at least one year prior to appointment, unless such candidate is newly registered with the Board of Elections and has not previously been registered in a political party. For purposes of determining party affiliation, if any, of an individual as of the time of her/his appointment to the Board of Ethics, a person who shall have been registered under the laws of the State of New York as a member of a political party at any time within the previous 12 months shall be deemed to be a member of that party or parties.
  - C. The Board of Ethics each year at a publicly noticed meeting shall elect from its membership its Chairman and Secretary and, upon its formation, shall promulgate and publish its own rules and regulations as to its forms and procedures and shall maintain proper records of its final opinions and proceedings, for which expenses it shall be reimbursed as to a Town charge, and an adequate appropriation for its operation shall be budgeted by the Town Board. The Town Clerk shall maintain the records of the Board of Ethics, as forwarded by or at the direction of the Chair or Secretary. All rules and regulations of the Board of Ethics and all final opinions and reports issued under § 570-11C or § 570-11G by the Board of Ethics shall be forwarded to the Town Clerk within five business days after adoption.
  - D. The Board of Ethics, with respect to Article 18 of the General Municipal Law and/or this Code of Ethics, shall render findings, conclusions, opinions, advisory opinions and recommendations, as appropriate, upon:
    - (1) the written request of the Town Board, or
    - (2) the written request of an actual or prospective Public Officer, Employee, or Agency Member, or

- (3) the receipt of a verified complaint by any resident of, or property owner or lessee in, the Town. Such verification, which is a sworn statement under oath, shall be filed with the Town Clerk and shall set forth, subject to the laws of perjury in the State of New York, that the information alleged in such complaint is believed in good faith to be true and correct to the complainant's knowledge, information and belief.
- E. Subject to the requirements of § 570-11I, the Board of Ethics shall advise the Town Board of the disposition of every complaint or request for advice that it receives and of every related investigation that it conducts. Except as otherwise provided in this chapter, the Board of Ethics shall consider such requests in accordance with such rules and regulations as it from time to time adopts; provided, however, that the Board of Ethics must consider all written requests of the Town Board.
- F. With respect to Public Officers and Employees covered by civil service laws, the identity of the requesting party, Public Officer, Employee or Agency Member, actual or potential, and of the accused party shall be kept confidential until the Board of Ethics determines, in accordance with civil service laws, that the information should be made public. Subject to the requirements of § 570-11I, the Board of Ethics shall submit written opinions, findings and recommendations which shall be a matter of public record and shall be filed in the office of the Town Clerk.
- G. The Board of Ethics may make recommendations to the Town Board with respect to the amendment of this Code of Ethics. No amendment initiated by the Town Board shall be adopted by the Town Board without affording the Board of Ethics at least 30 days to consider the Town Board's amendment. By March 15 of each year, the Board of Ethics shall prepare and submit an annual report to the Town Board. Such report shall include a general summary of the activities of the Board of Ethics during the previous year. It may also include recommended changes to the Code of Ethics or other comments that the Board of Ethics may consider appropriate.
- H. The Board of Ethics shall have the power and authority, in its discretion, to render reports and recommendations to the Town Board for appropriate action respecting unethical practices in violation of this chapter or any statute, rule or regulation relating to conflicts of interest, ethical conduct and Interest of Public Officers and Employees in Contracts. The Town Board, in its discretion and consistent with statutory provisions relating to the discipline or removal of Public Officers, Employees or Agency Members, may publicly disclose the reports and recommendations of the Board of Ethics filed with it.
- I. The Board of Ethics, with the assistance of counsel and in accordance with its internal rules and regulations, shall conduct an initial investigation as it deems appropriate in the circumstances with respect to any verified complaint submitted pursuant to § 570-11D by a resident of, or property owner or lessee in, the Town. In conducting any such investigation, the Board of Ethics shall notify the subject or subjects investigated, in writing, of the allegation, may call witnesses, shall administer oaths or affirmations if witnesses are called, and request the production of books and records which it may deem relevant. The subject or subjects have the right to be represented by counsel, to submit a written response and documents, and appear during this investigation. To the extent the investigation is held as part of an open meeting, there shall be a written transcript thereof.
- J. With respect to requests of the Town Board and requests of actual or prospective Public Officers, Employees and Agency Members and with respect to verified complaints in respect of which pursuant to its internal rules and regulations the Board of Ethics has determined after an initial investigation that good cause exists to proceed, the Board, with the advice of counsel and in accordance with its internal rules and regulations, shall conduct such investigations and hearings as it deems appropriate. The subject or subjects of the charges shall have the right to submit a written response and/or appear before the Board of Ethics with or without counsel, shall have the right to cross-examine witnesses or challenge documentary evidence that may be considered by the Board of Ethics, and shall have the right to give relevant testimony or evidence on behalf of the subject or subjects. In addition, the Board of Ethics shall have the authority to invite the complaining party and members of the public to submit any additional testimony, evidence or other information that the complaining party believes the Board of Ethics should consider in rendering any opinion on such allegation. The subject or subjects shall have the right to be represented by counsel. To the extent the investigation is held as a part of an open meeting, there shall be a written transcript thereof.

K. Nothing contained in this chapter shall be construed to permit the Board of Ethics to conduct an investigation of itself or any of its members. Should the Board of Ethics receive a verified complaint alleging that the Board of Ethics or any of its members has violated any provisions of Article 18 of the General Municipal Law and/or this Code of Ethics, it shall promptly transmit a copy of the complaint to the Town Board, which shall investigate the allegations of the complaint and, if the results of its investigation so warrant, remove the member from the Board of Ethics. An Ethics Board member may be removed from office by the Town Board for cause, including substantial neglect of duty, misconduct in office, inability to discharge the powers and duties of office, or violation of this chapter. Any individual on the Board of Ethics who is investigated shall be entitled to the same protections afforded all subjects pursuant to § 570-11I.

#### **§ 570-12. Cooperation with Board.**

All agencies of the Town and all Public 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 or appropriate for the proper exercise of its functions, powers and duties. The Board of Ethics may also request from third parties such data, information and statements as may in the opinion of the Board be necessary or appropriate for the proper exercise of its functions, powers and duties.

#### **§ 570-13. Inducement of Violation.**

No Public Officer or Employee shall induce any other person to violate, attempt to induce any other person to violate, or aid any other person in violating, any provision of this chapter. Any person who violates this section has committed a violation of this chapter.

#### **§ 570-14. Whistleblower Protection.**

A. No Public Officer, Employee or Agency Member shall retaliate against any Public Officer, Employee or Agency Member or other person for, notwithstanding any other provision of this chapter: 1) submitting a complaint to the Board of Ethics, or 2) reporting alleged waste, inefficiency, corruption, criminal activity or conflicts of interest to any federal, state or county regulatory or investigative authority, as expressly permitted by federal, state or county law, or 3) providing information to the Board of Ethics or to a federal, state or county regulatory or investigative authority, or 4) acting or refusing to act as required by this chapter and Article 18 of the General Municipal Law. No action protected by this section shall be considered a violation of this chapter.

B. Any Public Officer, Employee or Agency Member who violates this section has committed a violation of this chapter.

C. In resolving a complaint that a Public Officer, Employee or Agency Member has violated this section, the Board of Ethics may, among other things, recommend that a retaliatory personnel or regulatory action be reversed.

#### **§ 570-15. Sitting Town Justices and Candidates for Town Justice.**

Nothing in § 570-4A, Standards of Conduct; Gifts and Solicitations, of this Code of Ethics shall apply to any incumbent Town Justice who is subject to regulation under the Code of Judicial Conduct pursuant to the first sentence of § 100.6(A) thereof. Nothing in § 570-4A, Standards of Conduct; Gifts and Solicitations, or § 570-7A, Prohibited Political Activities; Contributions, of this Code of Ethics shall apply to:

A. any incumbent judge or Candidate for elective judicial office who is subject to regulation under Part 100.5(A) of the Code of Judicial Conduct, "Incumbent Judges and Others Running for Public Election to Judicial Office," with respect to activities subject to regulation thereunder; or

B. any person acting as part of a committee established under Part 100.5(A)(5) thereof with respect to activities subject to regulation thereunder.

#### **§ 570-16. Procedure for requesting prospective waivers.**

A. A Public Official, Employee or Agency Member may request, in advance, a waiver from one or more provisions of this chapter. In accordance with the provisions of this section, such request shall be made in writing to the Board of Ethics by fully describing:

- (1) the compelling need for such waiver;
- (2) how strict compliance with a provision or provisions of this chapter would create undue hardship for the individual; and
- (3) how such waiver, if granted, would not be inconsistent with the spirit or intent of this chapter.

- B. The Board of Ethics is empowered, upon such terms, conditions and limitations as it shall deem appropriate, to provisionally grant any such waiver upon an affirmative vote of at least four of its members. Such provisional grant shall promptly be reported to the Town Board by transmitting a copy to the Town Clerk. Such provisional grant shall not become effective for a period of 10 days after transmittal to the Town Clerk, during which period the Town Board may modify or overrule such preliminary grant at a public meeting.
- C. Requests for waivers must be made timely. Filing a request for a waiver shall have no impact on the need to comply with all of the provisions of this chapter. All provisions of this chapter shall remain in effect unless and until a provisional waiver is granted and it becomes effective. Thereafter, relief from strict compliance with this chapter shall be limited solely to the specific provisions cited in such waiver for the time period cited in such waiver.
- D. Nothing in this section shall give the Board of Ethics the right to waive any provisions of the Freedom of Information Act, or the requirements of §§ 570-8, 570-11 B, 570-12, 570-13, 570-14 and 570-16 of this chapter.
- E. Any request for a waiver by a member of the Board of Ethics shall be acted upon directly by the Town Board.

**§ 570-17. Severability.**

If any provision(s) of this chapter shall be declared unenforceable in a final and nonappealable order of a court of competent jurisdiction, that shall not affect the validity of the remaining provisions of this chapter, and the remaining provisions of this chapter shall remain in full force and effect.

**§ 570-18. Effective Date.**

This chapter shall take effect immediately upon filing with the Secretary of State.