

PREAMBLE

1. Individuals working on behalf of the Town of Shelter Island (“the Town”) are public servants who are expected to perform their duties in the best interests of the Town. They may, however, encounter a situation in which what is best for the Town may be different from their own personal best interest. In such a case, there is a “conflict of interest.”

2. New York State’s General Municipal Law, Article 18 contains provisions prohibiting certain conflicts of interest of municipal officers and employees. The rules of that law apply to all Town employees, which include officers or employees, paid or unpaid. In brief:

§ 801 prohibits conflicts of interest in the context of contracts between the Town and one of its employees. Contracts that violate the statute may be void (§ 804), and the offending employee may be charged with a misdemeanor. Exceptions exist (§ 802) and the term “employee” is broadly defined to include family members and certain related private organizations.

§ 803 requires potential conflicts of interest to be disclosed.

§ 805-a also prohibits Town employees from:

- Soliciting gifts in connection with their Town employment.
- Disclosing confidential information acquired in connection with their Town employment.
- Entering into certain compensation agreements that may create a conflict of interest.

Town employees should familiarize themselves with Article 18. The law itself is posted in Town Hall, and the law and the Comptroller's description of it can be found on the Town’s website under the Board of Ethics.

3. Article 18 is not a comprehensive statute. Section 806 leaves to each municipality the task of adopting a code of ethics “setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them.” These codes cannot limit the reach of Article 18, but they may increase it. Section 806 requires that the Town’s Code specifically address certain issues, including disclosure of interests that an employee may have in legislation, holding certain investments or undertaking certain employment. It also authorizes the Town to address other potential ethical issues beyond those included in Article 18. It also authorizes the Town to establish a board of ethics, consisting of members who receive no compensation and administer the ethics code.

4. The Town of Shelter Island currently has a Code of Ethics that was adopted in 1970, which is implemented through the Town’s Board of Ethics. The current Code, however, does not fully comply with Article 18 and is in need of an update. The Shelter Island Town Board has asked the Board of Ethics to revise and clarify the Code, in the interest of protecting the Town from unethical activity and providing its employees with clear guidance in performing their duties.

RESOLVED, that the Town of Shelter Island hereby adopts a code of ethics to read as follows:

Chapter 8

Code of Ethics

ARTICLE 1 Standards of Conduct

§ 8-1. Purpose.

Officers and employees of the Town of Shelter Island hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. Clear standards will also protect ethical public officials and rebut unfair allegations. This Code of ethics establishes those standards.

§ 8-2. Definitions.

ARTICLE 18- New York State's General Municipal Law, Article 18.

BOARD- The Town Board and any other administrative board, committee, or other agency or body comprised of two or more Town officers or employees.

CODE- This Code of Ethics.

FINANCIAL BENEFIT- Anything of value, whether in the form of money, property, services, loan, travel, entertainment, hospitality, or promise, or any other form. The benefit can be direct or indirect but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers.

HOUSEHOLD- Those persons residing within the same dwelling unit.

INTEREST IN A CONTRACT- A Town officer or employee has an interest in a contract when they, their spouse, minor child, dependent, or corporation in which the Town employee is an owner, officer or employee, would secure a financial benefit under the contract.

INTEREST IN A PRIVATE ORGANIZATION- A Town officer or employee is deemed to have an interest in any private organization when they, their spouse, or a relative, is an owner, partner, member, director, officer, employee, or directly or, in the case of a corporation, indirectly owns or controls more than 5% of the corporation's outstanding stock.

OFFICER or EMPLOYEE- Any Town employee whether paid or unpaid, whether serving full-time, part-time or in an advisory capacity.

RELATIVE- A spouse, brother, sister, parent, child, grandchild, or the spouse of any of them, or a household member of an officer or employee.

TOWN- The Town of Shelter Island.

§ 8-3. Applicability

This Code applies to the officers and employees of the Town and shall supersede any prior Town code of ethics. The provisions of this Code shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 and all rules, regulations, policies and procedures of the Town.

§ 8-4. Prohibition on use of Town position for personal or private gain.

No officer or employee shall use their Town position or official powers and duties to secure a financial benefit for themselves, a relative, or any private organization in which the employee is deemed to have an interest.

§ 8-5. Disclosure of interest in legislation and other matters where discretion is used.

A. Whenever a matter requiring the exercise of discretion, including proposed legislation, comes before an officer or employee, either individually or as a member of a board or committee, and disposition of the matter could result in a financial benefit to the officer or employee, a relative of theirs, or any private organization in which they are deemed to have an interest, the officer or employee shall disclose in writing the nature of the financial benefit.

B. The disclosure shall be made when the matter requiring disclosure first comes before the officer or employee, or when the officer or employee first acquires knowledge of the benefit requiring disclosure, whichever is earlier.

C. In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board and the Board of Ethics. In all other cases, the disclosure shall be filed with the Board of Ethics and that person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the officer, employee or board having the power to appoint the person's position. In addition, in the case of a person serving on a board, a copy of the disclosure shall be filed with said board and included in the minutes of the board's meeting.

§ 8-6. Recusal and abstention.

No officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including proposed legislation, when they know or have reason to know that the action could confer a financial benefit on the employee, a relative, or any private organization in which the employee is deemed to have an interest. Further, once recused, that person may not be in the room (or appear via videoconferencing) when the matter is being discussed, voted on, nor participate in any discussions or communications including e-mail or text regarding it.

§ 8-7. Prohibition inapplicable; disclosure, recusal and abstention not required.

This Code's prohibition on use of a Town position (§ 8-4), disclosure requirements (§ 8-5), and requirements relating to recusal and abstention (§ 8-6), shall not apply with respect to the following matters:

A. adoption of the Town's annual budget;

B. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

- (1) all officers or employees;
- (2) all residents or taxpayers of the Town; or
- (3) the general public; or

C. any matter that does not require the exercise of discretion.

§ 8-8. Investments in conflict with official duties.

A. No officer or employee may acquire the following investments:

- (1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 8-6 of the Code; or
- (2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of their official powers and duties.

B. This section does not prohibit a Town officer or employee from acquiring any other investments or the following assets:

- (1) less than five percent of the stock of a publicly traded corporation, or
- (2) bonds or notes issued by the Town and acquired more than one year after the date on which they were originally issued.

§ 8-9. Private employment in conflict with official duties.

A. No officer or employee, during their tenure as an officer or employee, may engage in any private employment that may be in substantial conflict with the proper discharge of their duties, when:

- (1) it can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 8-6 of the Code, or
- (2) it can be expected to require disclosure or use of confidential information gained by reason of serving as an officer or employee, or
- (3) it requires representation of a person or organization other than the Town in connection with litigation, negotiations, or any other matter to which the Town is a party.

B. No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board of which the officer or employee is a member, or has the power to appoint any member, nor for compensation for services to be rendered in relation to any matter before any agency of the Town whereby compensation is to be dependent or contingent upon any action by such agency with respect to such matter.

C. No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board, if the compensation is dependent or contingent upon any action by such board or committee with respect to such matter. This paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

§ 8-10. Future employment.

A. No officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

B. No officer or employee, for the one-year period after serving as an officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the Town office, board, department or comparable organizational unit for which they served.

C. No Town officer or employee, at any time after serving as an officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which the employee personally and substantially participated while serving as a Town officer or employee.

§ 8-11. Personal representations and claims permitted.

The Code shall not be construed as prohibiting an officer or employee from representing themselves, or their spouse or minor children before the Town; or asserting a claim against the Town on their own behalf, or on behalf of their spouse or minor children.

§ 8-12. Use of Town resources.

Town resources shall be used for lawful Town purposes.

A. No officer or employee may use or permit the use of Town resources for personal or private purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property. Provided, this provision shall not be construed as prohibiting:

- (1) any use of Town resources authorized by law or Town policy;
- (2) the use of Town resources for personal or private purposes when provided to a Town officer or employee as part of their compensation; or
- (3) the occasional and incidental use during the business day of Town telephones and computers for necessary personal matters such as family care and changes in work schedule.

B. No officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 8-13. Interests in Contracts.

A. Article 18 requires no officer or employee may have an interest in a contract with the Town when such officer or employee, individually or as a member of a board, has the power or duty to:

- (1) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- (2) audit bills or claims under the contracts, or
- (3) appoint an officer or employee who has any of the powers or duties set forth above.

B. Exceptions to this prohibition are detailed in Article 18, Section 802. These include an exception for contracts entered into prior to the time a Town employee was elected or appointed, and an exception for contracts which in the aggregate do not exceed \$750 in a fiscal year

C. Every officer and employee shall disclose interests in contracts with the Town at the time and in the manner as follows: Any Town officer or employee or their spouse, minor child or dependent,

who has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the Town, shall publicly disclose the nature and extent of such interest in writing to their immediate supervisor, or if a member of a Board to said board, and to the Board of Ethics as soon as the employee has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body. Disclosure and recusal do not cure a prohibited interest.

§ 8-14. Political Solicitations.

A. No officer or employee shall directly or indirectly compel or induce a subordinate Town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any Town officer or employee, or an applicant for a position as a Town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 8-15. Confidential Information.

No officer or employee who acquires confidential information in the course of exercising or performing their official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing their official powers and duties.

§ 8-16. Gifts.

No Town officer or employee shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, property, service, loan, travel, entertainment, hospitality, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on his their part;

§ 8-17. Disclosure in certain applications.

A. Section 809 of Article 18 imposes strict disclosure requirements on persons applying for variances, exemptions, and other approvals from local planning and zoning regulations. In general, it provides that the applicant must identify any local officer or employee who has an interest in the application. As applied to Shelter Island, every applicant for a variance, land-use amendment, change of zoning, or approval of subdivision map from the Town Board, Zoning Board of Appeals, Planning Board, Town Clerk or Building Department must disclose information pertaining to any interest that a Town officer or employee, their spouse, parents, siblings, children, grandchildren (or the spouses of any of them) may have in the application.

B. Section 809 (5) provides that one who knowingly and intentionally violates this disclosure requirement shall be guilty of a misdemeanor.

ARTICLE 2 Administration

§ 8-18. Board of Ethics.

A. Article 18, § 808 permits the creation of a Town Board of Ethics (also referred to as “Ethics Board”). This Code hereby authorizes the creation of such a board. The Town Board believes that an independent Ethics Board will assure the public interest in applying this Code without bias or favoritism.

B. The Board of Ethics shall consist of five members, all of whom reside in the Town of Shelter Island and who shall serve without compensation, to be appointed by the Town Board for staggered five-year terms. A majority of such members shall be persons other than Town employees, but the Board shall include at least one member who is a Town employee.

C. Conditions of Board of Ethics membership.

(1) No person may be appointed as a member of the Ethics Board who is a current elected Town officer; or an officer of any local, county or state political party, association, club or independent political committee subject to regulations of the state election law; or a campaign manager, consultant or treasurer for a political party committee or individual election campaign committee or has served in such political capacity during the past twenty-four months.

(2) An Ethics Board member shall promptly resign if entering a campaign race as a candidate for public office; or as a campaign manager, consultant, or treasurer for a political party committee or individual election campaign committee; or when recusal has become prevalent for such individual for matters before the Board of Ethics.

(3) An Ethics Board member may be removed for cause by the Town Board upon any of the following grounds:

- a. Failure to meet the qualifications set forth in § 8-19 of this chapter; or
- b. Substantial neglect of duty; or
- c. Gross misconduct in office; or
- d. Inability to discharge the powers or duties of office; or
- e. A violation of this chapter.

D. The Ethics Board shall have the following substantive authority:

(1) Town officers and employees may request advice from the Ethics Board concerning their personal compliance with this Code of Ethics. In response to such a request, and after due consideration, the Ethics Board shall issue a confidential advisory opinion to the requesting party.

(2) In the event any person believes in good faith that a Town employee or officer is engaged in activity that violates this Code, they may file a complaint with the Board of Ethics. The Board of Ethics will investigate such a complaint and issue an opinion on the complaint if it believes there is probable cause of a Code violation. In the absence of such, it will dismiss the complaint.

(3) The Board of Ethics may act on its own motion to initiate an investigation into an employee's alleged violation of this Code.

(4) Upon the written request of the Town Board, of a Town officer or employee, or of any contracting party, the Ethics Board shall investigate and provide to the Town Board a written report and recommendation concerning any Town contract or agreement that may be void pursuant to Article 18, Section 804. Additionally, the Ethics Board may, in its discretion, undertake such an investigation upon its own initiative, in which case it may present a report and recommendation to the Town Board.

§ 8-19. Investigations.

A. Upon receipt of a written complaint alleging a violation of this Code or upon determining on its own initiative that a violation of the Code may exist, the Ethics Board shall have the power and duty to conduct with reasonable promptness any investigation necessary to carry out the provisions of this Code. Written complaints must include the name of the individual complainant. Upon request, the name of a complainant may be kept confidential. If the Board determines that a complaint is frivolous on its face or the alleged violation would be *de minimis*, it may dismiss it without further investigation.

B. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, compel attendance of witnesses, and require the production of any books or records that it may deem relevant and material. The Ethics Board shall make a reasonable effort to obtain voluntary cooperation prior to exercising or enforcing their right to compel testimony. Further, the Ethics Board shall take steps to ensure that every individual's right to due process is protected.

C. Any person filing a complaint with the Ethics Board, and every person who is alleged in such a complaint to violate this Code, shall be notified in writing of the disposition of the complaint.

D. Nothing in this section shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any provision of this Code, or any other law, the Ethics Board shall promptly transmit to the Town Board a copy of the complaint.

§ 8-20. Administration and reporting.

The Board of Ethics shall have the following administrative duties:

A. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this Code.

B. To review, index, maintain on file, and dispose of complaints alleging violations of this Code and to make notifications and conduct investigations. The Board of Ethics shall have the confidential advice of legal counsel employed by the Town or outside counsel and the services of a confidential clerk employed by the Town to keep minutes and files.

C. To forward its opinions responding to complaints or opinions on its own motion to the Town Board with any recommendations for disciplinary actions and penalties.

D. To make public on the Ethics Board website its opinions in a brief summary form that removes all personal identifying information.

E. To prepare an annual report to the Town Supervisor and Town Board, summarizing the activities of the Ethics Board. The report may also recommend changes to the text or administration of this Code. The Ethics Board shall periodically review this Code and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable common sense standards of conduct.

§ 8-21. Penalties.

Violations of this Code may result in penalties or sanctions, including, without limitation, disciplinary action; a civil fine; monetary damages; injunctive relief; a misdemeanor filing for any Town officer or employee who intentionally violates this code; or referral to the appropriate law enforcement agency. Imposition of such penalties or sanctions shall be within the discretion of the Town Board.

§ 8-22. Posting and distribution.

A. The Town Clerk will ensure that a copy of (i) Article 18, (ii) this Code, and any subsequent amendments thereto, are posted publicly and conspicuously in Town Hall and any additional buildings in which Town employees and officers conduct business.

B. The Town Clerk will ensure that Article 18, this Code, and any subsequent amendments thereto, are posted on the Town's website, and all officers and employees of the Town will be notified by email that they should review the same, and shall periodically attest, upon hiring and at least every five years thereafter, that they have received and reviewed the Code of Ethics. The failure of an officer or employee to review the posted material does not affect either the applicability or enforceability the same.

§ 8-23. Effective date.

This Code takes effect upon the filing with the New York State Secretary of State.