

CHAPTER 23 CODE OF ETHICS

[HISTORY: Adopted by the Town Board of the Town of Southampton 12-12-2003 by L.L. No. 76-2003.

This local law repealed former Ch. 23, Ethics, Code of, adopted as Ch. 6 of the 1979 Code, as amended. This local law also stated that § 23-4I, Revolving door, would apply only to those Town officers or employees employed by the Town on or after 1-1-2005.

Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 14.

Open government — See Ch. 50.

Personnel — See Ch. 57.

§ 23-1 Findings.**A.**

The proper administration of government requires Town officers and employees, whether elected or appointed, paid or unpaid and/or serving as a member of any administrative board, commission or other agency, to act fairly, impartially and without taint of conflict of interest in fulfilling their public responsibilities. It is the purpose of this chapter to provide standards of conduct, in addition to those set forth in Article 18 of the General Municipal Law, to assist Town officers and employees in discharging their duties in a proper and ethical manner and to provide for annual disclosure and transactional disclosure by elected officials, certain local political officials and applicants in order to ensure impartiality and fairness in the administration of local government.

B.

Purposes. Specifically, the purposes of this chapter are:

(1)

To enable and require the officers and employees of the Town to act fairly, impartially, without taint of conflict of interest and without any appearance of conflict of interest in fulfilling their public responsibilities;

(2)

To set clear guidelines for high standards of ethical conduct for officers and employees of the Town;

(3)

To afford officers and employees of the Town clear guidance concerning such standards, including specific guidance in the form of advisory opinions;

(4)

To promote public confidence in the integrity of the government and administration of the Town and its agencies and administrative offices;

(5)

To facilitate consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance the accountability of government to the people;

(6)

To provide fair and speedy resolution of questions and complaints concerning the conduct of officers and employees of the Town;

(7)

To protect the public from unethical conduct and to protect the officers and employees of the Town from frivolous claims;

(8)

To educate the public, officers and employees of the Town regarding this Code of Ethics.

C.

Construal with other provisions. Any requirements or standards set forth in this chapter are in addition to other requirements, prohibitions or rules governing ethical conduct set forth in Article 18 of the General Municipal Law or any other general or special law relative to ethical conduct and interests in municipal contracts.

§ 23-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATIVE HANDBOOK

The booklet, approved by the Town Board, and distributed to administrative officers and confidential Town

employees detailing personnel policies and management or administrative responsibilities.

ADMINISTRATIVE OFFICER

An employee with administrative responsibilities that may include rendering ministerial acts or ministerial decisions.

AGENCY

Any Town authority, agency, board, bureau, commission, committee or council created by law or appointed by the Town Board or Town Supervisor, except for an advisory committee.

APPEAR and APPEAR BEFORE

Communicating in any form, including, without limitation, personally, through another person, by letter, by telephone or by electronic communication, with or without compensation.

APPLICANT

The person that is submitting an application seeking approvals from a Town agency or ministerial acts. An applicant includes the owner, contract vendee (if any), agent, attorney, engineer, architect or other representative making the application or request for relief.

[Added 6-12-2007 by L.L. No. 32-2007]

BENEFIT

Any gain or advantage to the beneficiary, and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary, and any promise thereof. The term "benefit" does not include campaign contributions authorized by law.

CLIENT or CUSTOMER

A.

Any person to whom a Town officer or employee has supplied goods or services during the previous 24 months having, in the aggregate, a value greater than \$1,000; or

B.

Any person to whom a Town officer's or employee's outside employer or business has supplied goods or services during the previous 24 months having, in the aggregate, a value greater than \$1,000 but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

CONSULTANT

Any individual, association, partnership or corporation or any employee or agent thereof who has been retained to assist any board or agency in the discharge of its duties. "Consultant" shall also include any business partner, employer or members of the consultant's firm or company.

CONTRACT

As defined in Article 18 of General Municipal Law, any claim, account or demand against or agreement with the Town, express or implied.

ETHICS BOARD

The Ethics Board of the Town of Southampton established pursuant to § 23-19 of this chapter.

FORMER TOWN OFFICER OR EMPLOYEE

Any person who held at any time in the past any position described in the definition of a "Town officer or employee."

INTEREST

As defined in Article 18 of the General Municipal Law, a direct or indirect pecuniary or material benefit accruing to a Town officer or employee as the result of a contract with the Town which such officer or employee serves. For purposes of this chapter, a Town officer or employee shall be deemed to have an interest in the contract of:

A.

His or her spouse or relative as defined herein, except a contract of employment with the Town which such Town officer or employee serves.

B.

A firm, partnership or association of which such Town officer or employee is an officer, member or employee.

C.

A corporation of which such Town officer or employee is an officer, director, or employee.

D.

A corporation of which any stock is owned or controlled directly or indirectly by such Town officer or

employee.

MINISTERIAL ACT or MINISTERIAL DECISION or MINISTERIAL MATTER

An administrative action performed in a prescribed manner not allowing for substantial personal discretion.

OUTSIDE EMPLOYER OR BUSINESS OF A TOWN OFFICER OR EMPLOYEE

A.

Any activity, other than service to the Town, from which the Town officer or employee receives compensation, or anticipates or has reason to anticipate receiving compensation, for services rendered or goods sold or produced; or

B.

Any person from whom or from which the Town officer or employee receives compensation, or anticipates or has reason to anticipate receiving compensation, for services rendered or goods sold or produced; or

C.

Any entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee, or with which the Town officer or employee anticipates or has reason to anticipate becoming a member, officer, director, or employee within the next 24 months; or

D.

Any entity in which the Town officer or employee has an ownership interest, unless the Town officer or employee owns less than 5% of such entity, and such interest is worth less than \$10,000; or

E.

Any entity in which the Town officer or employee anticipates or has reason to anticipate obtaining or receiving an ownership interest, unless the ownership interest in question constitutes less than 5% of such entity, and such interest is worth less than \$10,000; or

F.

Any activity, person or entity described in Subsections A through E above with which the Town officer or employee ceased to have any involvement or participation, or ceased to hold any position, or from which the Town officer or employee ceased to receive any compensation within a period of less than 24 months from the date when the Town officer or employee disclosed the termination of the outside employer or business relationship to the Board of Ethics pursuant to § 23-10.

PARTICULAR MATTER

Any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest or other similar action which involves a specific party or parties, including actions leading up to a particular matter, provided that a particular matter shall not be construed to include the proposal, consideration or enactment of local laws or resolutions by the Town Board, or any action on the budget.

PERSON

A human being, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

POLITICAL PARTY COMMITTEE

Any corporation or committee which operates to aid or promote the success or defeat of a political party and/or the election or defeat of any candidate, within the Town of Southampton.

RELATIVE

A spouse, former spouse, child, step-child, son- or daughter-in-law, brother, sister, parent, brother-in-law, sister-in-law, parent-in-law, niece or nephew of the Town officer or employee, as well as any person claimed as a dependent on the Town officer's or employee's most recently-filed state personal income tax return.

SPOUSE OF A TOWN OFFICER OR EMPLOYEE

As defined in Article 18 of the General Municipal Law, the husband or wife of the Town officer or employee, unless living separate and apart with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to a judicial order, decree or judgment or a legally binding separation agreement.

SUBORDINATE OF A TOWN OFFICER OR EMPLOYEE

Any other Town officer or employee over whose activities he or she has direction or control, either directly or indirectly.

SUPERVISOR OF A TOWN OFFICER OR EMPLOYEE

Any other Town officer or employee who has direction or control, either directly or indirectly, over the activities of that Town officer or employee.

TOWN

The Town of Southampton, but shall not be construed to include a Town Judge, Town Justice or officer of the Unified Court System.

TOWN OFFICER OR EMPLOYEE

An officer or employee of the Town of Southampton, whether paid or unpaid, elected or appointed, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a "Town officer or employee" solely by reason of being a volunteer fireman or civil defense volunteer. A "Town officer or employee" shall not include a Judge, Justice or officer of the Unified Court System.

UNEMANICIPATED CHILD OF A TOWN OFFICER OR EMPLOYEE

As defined in Article 18 of the General Municipal Law, any son, daughter, stepson or stepdaughter who is under age 18 years, unmarried and living in the household of the Town officer or employee.

§ 23-3 Copies of all documentation.

Whenever this chapter requires any person to file documents or information with the Town Clerk, such filing shall be made in duplicate. The Town Clerk shall stamp both copies with the date received, retain one copy, and forward the second copy immediately to the Board of Ethics.

§ 23-4 Standards of conduct.A.

Ethical conduct. In fulfilling their public responsibilities, Town officers and employees shall act fairly, impartially, without taint of conflict of interest and without any appearance of conflict of interest.

B.

General prohibitions.

[Amended 6-12-2007 by L.L. No. 32-2007 ; 2-12-2008 by L.L. No. 8-2008]

(1)

Except as provided for in Subsection B(3) below, a Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a benefit to any of the following persons:

(a)

The Town officer or employee; or

(b)

The outside employer or business of the Town officer or employee; or

(c)

A person who shares the residence of the Town officer or employee; or

(d)

A customer or client of the Town officer or employee; or

(e)

A relative of the Town officer or employee; or

(f)

A person, as defined in § 23-3, which includes a public or private corporation, from whom an applicable Town officer or employee has received election campaign contributions to his or her individual campaign committee(s) aggregating \$1,000 or more in monetary funds, or in-kind, over the prior 24 months, which includes the previous, current and future campaigns for public office. "Previous campaign" refers to the prior election cycle for said individual campaign committee. "Current and future campaign" refers to the present election cycle for a Town officer or employee who is either running for election as a first-time candidate or is seeking re-election or election to another elective office.

(2)

A Town officer or employee shall not use his or her official position or office or induce any of the persons listed above to impose financial detriment or harm on any person without reasonable justification.

(3)

Disclosure and recusal. A Town officer or employee shall promptly disclose and recuse himself or herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may benefit any of the persons listed in § 23-4B(1) above. However, recusal is not required by an elected Town official so long as any relationship described in § 23-

4B(1) above is disclosed as part of the public record, in accordance with the provisions of this chapter. The listing required to be filed by applicable Town officers and employees pursuant to § 23-10C(3)(h) shall be sufficient for disclosure as part of the public record on the part of a Town officer or employee with respect to § 23-4B(1)(f). It is the responsibility of the applicant, not the Town officer or employee, to comply with supplemental requirements for applicant disclosure on certain land use applications, licenses, permits, and other forms of relief by a Town agency, pursuant to § 23-12.

(4)

Disclosure required for abutting properties. A Town officer or employee shall disclose any relationship with persons who own abutting properties to any site which is the subject of an application before a Town agency where said officer or employee is either a member of such Town agency or has a role in processing the application. Relationships required to be disclosed by the Town officer or employee are the same as those listed in § 23-4(B)(1). Town officers and employees may request guidance from the Board of Ethics to determine if recusal is required.

C.

Gifts.

[Amended 8-14-2007 by L.L. No. 39-2007]

(1)

Findings. The Town Board hereby finds concurrence with the sentiment expressed in the federal gift regulations that "...it is never inappropriate and frequently prudent for [a municipal officer or] an employee to decline a gift offered by a [certain] source or because of his or her official position."

(2)

A Town officer or employee shall not directly or indirectly solicit any gift, nor accept any gift having a value of \$25 or more, from any person, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could be reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of official duties or was intended as a reward for any official action on his or her part.

(3)

To avoid a conflict of interest with his or her official duties, solicitation and acceptance of gifts of any value is prohibited by a town officer or employee from "disqualified sources" except as provided for as exceptions in § 23-4C(6) below. The aforementioned "disqualified sources" are: any person or entity that is regulated by, does business with, appears before or negotiates with a Town agency; lobbies or has litigation adverse to a Town agency; applies for or receives funds from a Town agency; consults for or provides goods and services to a Town agency, or contracts with another agency and the Town receives the benefit of the contract. "Disqualified sources" include:

(a)

A person or entity who is currently seeking a benefit from the Town; or

(b)

A person or entity who the Town officer or employee knows, or has reason to know, will seek a benefit from the Town within the 24 months following solicitation or acceptance; or

(c)

A person or entity who the Town officer or employee knows, or has reason to know, has received or sought a benefit from the Town within the 24 months preceding the solicitation or acceptance.

(4)

The term "gift" as used in this chapter includes anything of value given to a Town officer or employee. It may be in any form, such as money, service, loan, travel, meals, refreshments, entertainment, hospitality, promise, discount, or forbearance. It may be provided in kind or by purchase of a ticket, payment in advance or reimbursement for an expense that has been incurred. As used in this chapter, "entertainment" and "hospitality" include acceptance of complimentary invitations to fundraising events, golf outings, and other functions by a Town officer or employee, with exceptions as provided for in § 23-4C(6).

(5)

The value of a gift shall be its fair market value. As provided for on the annual financial disclosure statement for applicable Town officers and employees, written disclosure is required for all gifts accepted by a Town officer or employee, his or her spouse and unemancipated children which aggregate over \$1,000 per person, unless expressly excluded in § 23-4C(6) below. The \$1,000 threshold is not a per-gift value; it is an aggregate value per gift-giver for a twelve-month period, commencing January 1 each year. A Town officer or employee who cannot ascertain the exact market value of a gift may estimate by reference to the retail cost of a similar item of like quality.

(6)

Exceptions to § 23-4C(2) and (3):

(a)

Gifts from a family member, member of the same household, or person with a personal relationship with the Town officer or employee, including invitations to attend personal or social events, when circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor. In the case of friends who are fellow Town officers and employees, gifts are allowable which are reasonable and customarily given on special occasions, such as marriage, illness, retirement, and holidays. Further, occasional hospitality (meals and refreshments) exchanged between fellow Town officers and employees is permissible, which is modest, reasonable and customary. In determining motivation, the following factors shall be among those considered: (a) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (b) whether the item was purchased by the gift-giver; and (c) whether or not the gift-giver at the same time gave similar items to other public officials or employees; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the gift-giver seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.

(b)

Anything of value accepted on behalf of the Town and transferred to the Town, including goods or services which are provided to the municipality and facilitate government actions or functions.

(c)

Awards (nonmonetary), certificates, plaques and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service. In addition, an honorary degree bestowed on a Town officer or employee is permissible.

(d)

Complimentary attendance, including food and beverage, at bona fide charitable events, subject to department head approval. A department head shall consider whether or not such complimentary attendance may violate § 23-4 C(2) and (3) above, except that the face value of any complimentary ticket to such charitable event may exceed \$25, but be no greater than \$75. Attendance at charitable events with complimentary tickets having a face value greater than \$75 may be authorized by a department head only under the provisions of § 23-4 C(6)(e) below.

(e)

Complimentary attendance, food and beverage offered by the sponsor of an event that is widely attended, or was in good faith intended to be widely attended, and (a) when attendance at the event is related to the attendee's duties or responsibilities as a Town officer or employee, including performance of a ceremonial function appropriate to his or her position; or (b) as an authorized representative of an elected Town official; or (c) social or business functions in which the Town officer or employee participates in an official capacity (e.g., fire department/ambulance corps dinner dances, chamber of commerce luncheons, charitable events).

(f)

Complimentary attendance, including food and beverage, at political fundraising events, when: (a) given to a Town officer or employee by the sponsor of the event, provided that the sponsor is a Town officer or employee holding public office, or is a candidate for a Town elected position; or (b) given to a Town officer or employee by a fellow Town officer or employee, regardless of whether he or she is appointed or elected; and (c) passes or tickets being offered as complimentary were not proffered by a "disqualified source."

(g)

Meals or refreshments when participating in a professional or educational program and the meals and refreshments are provided to all participants.

(h)

Promotional items having no substantial resale value, such as pens, mugs, calendars, hats, and t-shirts.

(i)

Acceptance of holiday gifts or occasional hospitality to a Town officer or employee where the value does not exceed \$25 in the aggregate annually per gift-giver (common examples: cookies, chocolates, fruit baskets, plants, floral arrangements, memo notebooks, desk calculators, deli lunch). The intent is to avoid the appearance of impropriety while allowing for acceptance of items of nominal value that cannot be inferred by reasonable persons as inducements to elicit more favorable treatment from a Town officer or employee. In no case, however, shall a Town officer or employee accept money as a gift or gratuity from a disqualified source. A department administrator may promulgate rules more stringent than those set forth herein, such as allowing acceptance of only those gifts that can be placed on the front counter for the department to share as a whole, and with the general public, which does not exceed an annual aggregate value of \$25 per employee of said department or agency per gift-giver. Such departmental rules shall be posted within the department.

(j)

Goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a Town official or employee, and offered on the same terms and conditions as the goods and services are offered to the general public or segment thereof.

(k)

Campaign contributions (both monetary and in-kind) reportable under Article 14 of the New York State Election Law.

(l)

Travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist, or speaker at an informational event; in addition, provision of local transportation to inspect or tour facilities, operations, or property owned or operated by the entity providing such transportation.

(m)

A commercially reasonable loan made on terms not more favorable than loans in the ordinary course of business.

(n)

Rewards or prizes given to competitors in contests or events, including random drawings open to the public.

(o)

Payment received by a Town officer or employee serving as a Marriage Officer under § 11 of the Domestic Relations Law of the State of New York for solemnization of a marriage at a place other than his or her normal place of business, or at a time other than his or her normal hours of business, in an amount no greater than that approved by the Town Board by resolution at the time of appointment as Marriage Officer.

(7)

Special provision for elected Town officials. Notwithstanding the general standards set forth above in § 23-4C(6)(a) through (o), discretionary acceptance of occasional meals and refreshments provided by disqualified sources to an elected Town official not exceeding \$75 in the aggregate annually is exempt from said prohibition where it can be reasonably inferred that said hospitality cannot be construed as a gift intended to influence him or her or could be reasonably expected to influence him or her in the performance of official duties or was intended as a reward for any official actions on his or her part.

(8)

Alcohol gift prohibitions on Town property. Acceptance of alcohol as a gift to a Town officer or employee, such as wine or liquor bottles, regardless of value, even from nondisqualified sources, is prohibited if the gift is provided on Town property or a location where official business is taking place.

(9)

Impermissible indirect gifts. The prohibition on gifts enumerated in § 23-4C also applies to the immediate family of a Town officer or employee if such gifts are given with the knowledge and acquiescence of the Town officer or employee in such circumstances wherein a direct gift would be prohibited by § 23-4C.

(10)

Disclosure of gifts. As provided for on the annual financial disclosure statement, written disclosure is required for all gifts accepted by certain Town officers or employees, their spouses and unemancipated children which aggregate over \$1,000 per gift-giver, unless expressly excluded in § 23-4C(6) above.

D.

Confidential information.

(1)

In accordance with § 805-a of Article 18 of General Municipal Law, a Town officer or employee, and a former Town officer or employee, shall not disclose any confidential or privileged information that he or she has acquired in the course of his or her official duties, except as provided for in Subsection D(3) of this subsection;

(2)

A Town officer or employee, and a former Town officer or employee, shall not use any confidential or privileged information that he or she has acquired in the course of his or her official duties to further or to harm the interests of any person or further his or her personal interests.

(3)

A Town officer or employee may disclose confidential or privileged information in the following situations:

(a)

If the Town officer or employee is acting in furtherance of his or her official duties; or

(b)

Pursuant to the order of a court of competent jurisdiction; or

(c)

When authorized to do so pursuant to an advisory opinion of the Board of Ethics.

E.

Representation; appearances. To supplement the provisions of § 805-e of Article 18 of the General Municipal Law, which prohibits representation before a Town agency over which the Town officer or employee has jurisdiction and also prohibits

representation before any Town agency on any matter for a contingent fee, a Town officer or employee shall not:

(1).

Represent any other person in any matter before any Town agency in which the Town officer or employee is, or may be, called upon to render any decision on behalf of the Town; or

(2).

Represent any other person in any matter against the interest of the Town; or

(3).

Appear before any agency of the Town, except on behalf of the Town, or on his or her own behalf.

F.

Investments in conflict with official duties. Whenever a Town officer or employee holds an investment directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties, he or she shall provide public disclosure in accordance with § 23-5D and shall refrain from involvement in the matter which creates such conflict with his or her official duties.

G.

Private employment. A Town 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 his or her official duties. This shall not be construed to apply to private employment outside of the jurisdictional limits of the Town, or whenever a Town officer or employee has provided public disclosure in accordance with § 23-5B and has acted in accordance with § 23-5D.

H.

Political solicitation and campaign-related activities.

[Amended 8-14-2007 by L.L. No. 38-2007]

(1).

No Town officer or employee shall, with undue influence, individually request, or knowingly authorize anyone else to individually request, any other Town officer or employee to participate in an election campaign or contribute to a political party committee or to an individual campaign committee. This provision shall not be construed to prevent requests such as invitations to political functions, which are mailed and that are in form and substance the same as those mailed to individuals who are not Town employees. However, general or mass solicitations to Town officers or employees, or Town departments, and the use of the Town of Southampton employee database of home mailing addresses for that purpose, are prohibited.

(2).

Town officers and employees are not prohibited from attending political functions or participating in campaign-related activities, provided that such is on their own time. Use of Town taxpayer-funded vehicles, equipment, computers, Internet, email, telephones and supplies by a Town officer or employee for campaign-related activities is prohibited. For purposes of this section, "campaign-related activities" is limited to attending political fundraisers, selling and purchasing fundraiser tickets, circulating and signing designating petitions, and distributing campaign literature and products. The intent is to restrict Town employees during their working hours and in their work spaces from engaging in specific campaign-related activities in order to ensure a partisan-free work environment and protection of government resources. Town officers and employees may engage in such campaign-related activities in places of public assembly and other traditional locations for free speech demonstrations while on their own time, and if permitted under a collective bargaining agreement on union release time for bonafide union activities. Discretionary use of Town vehicles for elected Town officials allowing for campaign-related activities is administered under the Town Vehicle Policy and the terms of a user agreement.

I.

Revolving door.

(1).

For a period of 12 months following service on a Town agency, a former Town officer or employee shall not appear or practice before his or her former Town agency, except on his or her own behalf; provided, however, that nothing contained herein shall be deemed to prohibit a former Town officer or employee from making communications with the agency served by the Town officer or employee which are incidental to an otherwise permitted appearance in an adjudicative proceeding before another agency or body or a court, unless the proceeding was pending in the agency served during the period of the Town officer or employee's service with that agency.

(2).

No former Town officer or employee shall, at any time, appear before any Town agency, or perform any work, whether paid or unpaid, for any person, in connection with any matter on which the Town officer or employee personally and substantially worked while in Town service.

(3).

No former Town officer or employee shall, after leaving Town service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any former Town officer or employee from disclosing any information concerning conduct which he or she knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

(4)

The prohibitions on appearances and practice after leaving Town employment, as described in Subsection I(1) and (2) above, shall not apply to positions with or representation on behalf of any local, county, state or federal agency.

(5)

Nothing contained in this subsection shall prohibit a former Town officer or employee from being associated with or having a position in a firm which appears before a Town agency or from acting in a ministerial manner regarding business dealings with the Town.

J.

Consultants.

(1)

Except as provided in Subsection J(2), (3) and (4) below, to avoid potential conflicts of interest, a Town consultant shall not appear on behalf of any other client before the Town or any agency thereof during the period of service to the Town by the consultant. The Town shall specify the restriction in any written contracts entered into between the Town and consultants. However, failure of the contract to state the restriction shall not affect the enforcement of this section of the Town's Ethics Code.

(2)

The restrictions contained in this chapter shall not apply to consultants which:

(a)

Operate a business located within the Town and have been retained by the Town to perform a contract valued at \$25,000 or less; or

(b)

Have a written contract with the Town in which the Town Board has expressly authorized an exemption for the consultant from the provisions of the Town's Ethics Code; or

(c)

Have received a special waiver from the Town's Ethics Board pursuant to Subsection J(4) of this section.

(3)

Nothing in this subsection shall be construed to prohibit a consultant from:

(a)

Appearing on his own behalf, or on behalf of the Town, before a Town agency.

(b)

Seeking or obtaining a ministerial act from an administrative officer; or

(c)

Receiving a Town service or benefit, or using a Town facility, on the same terms on which such service, benefit or facility is available to the public.

(4)

Special waiver. A consultant may make appearances before Town agencies otherwise prohibited by this section, upon written approval of the Ethics Board and the consent of the involved Town agencies. The Ethics Board shall consider such approval on a case-by-case basis taking into account for such findings the following criteria:

(a)

The general expertise of the consultant.

(b)

The expertise of the consultant vis a vis the particular matter.

(c)

The extent of the consultant's involvement both for the Town and for the private client(s).

(d)

The extent of the fees, past or future, to be paid to the consultant by the Town.

(e)

The impact such appearances may have on the public trust.

(f)

The statement of necessity from the involved Town agency.

(g)

The standard for this waiver is intended to be less stringent than that contained in § 23-28 of this code. Such findings shall be detailed in writing by the Ethics Board and filed with the office of the Town Clerk.

K.

Office of the Town Attorney. Due to the confidential matters handled by the office of the Town Attorney, no Town Attorney, Deputy Town Attorney or Assistant Town Attorney appointed to serve within the office of the Town Attorney shall simultaneously serve as a political party official or committee member of a local, county, state political party committee. A newly appointed Town officer or employee designated to serve in the office of the Town Attorney shall have 14 days to resign his or her political committee position.

L.

Avoidance of conflicts. A Town officer or employee shall not knowingly acquire, solicit, negotiate for, or accept any benefit, interest, employment, or other thing of value that would put him or her in violation of this Code of Ethics.

§ 23-5 Disclosure of interest in contract, transaction or legislation.

A.

Prohibited interests in contracts. No Town officer or employee shall have an interest in a contract with the Town, or an interest in a bank or trust company, that is prohibited by § 801 of Article 18 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by § 805-a (2) of Article 18 of the General Municipal Law.

B.

Disclosable interests in contracts or legislation.

(1)

In accordance with § 803 of the General Municipal Law, whenever a Town officer or employee has, will have, or later acquires an interest in any actual or proposed contract with the Town, he or she shall publicly disclose the nature and extent of such interest in writing to the relevant Town agency as soon as he or she 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 Town agency.

(2)

To the extent that the Town officer or employee knows that a relative of the Town officer or employee has an interest in any actual or proposed contract with the Town, the Town officer or employee shall publicly disclose the nature and extent of such interest in writing to the relevant Town agency as soon as he or she 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 Town agency.

(3)

To the extent that the Town officer or employee knows that any relative of the Town officer or employee has an interest gained by the sale of a service or property to the Town, the Town officer or employee shall publicly disclose the nature and extent of such interest in writing to the relevant Town agency as soon as he or she 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 Town agency.

(4)

To the extent that the Town officer or employee knows thereof, the Town officer or employee, whether paid or unpaid, shall publicly disclose the nature and extent of any direct or indirect financial or other private interest in any matter, application, petition, or pending legislation in writing to the relevant Town agency. Such written disclosure shall be made part of and shall be set forth in the official record of the proceedings of such Town agency.

(5)

To the extent that the Town officer or employee knows that any relative of the Town officer or employee has any direct or indirect financial or other private interest in any matter, application, petition, or pending legislation before any Town agency, the Town officer or employee shall publicly disclose the nature and extent of any direct or indirect financial or other private interest in any matter, application, petition, or pending legislation in writing to the relevant Town agency. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such Town agency.

(6)

The Town Clerk shall cause a copy of that written disclosure to be filed promptly with the Ethics Board.

C.

Violations. Any Town officer or employee who willfully and knowingly violates any provision of § 23-5A, Prohibited interests in contracts, shall be guilty of a misdemeanor pursuant to § 805 of Article 18 of the General Municipal Law.

D.

Whenever a Town officer or employee makes a public disclosure pursuant to § 23-5B or is otherwise required to recuse himself or herself pursuant to § 23-4B(3) of this chapter, he or she shall immediately:

(1)

Refrain from any further involvement in the matter; and

(2)

Inform his or her immediate supervisor, if any, and shall immediately disclose in writing to the Town Clerk and orally on the record the reason for recusal.

(3)

A Town officer or employee shall not be required to file a public disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed with the Town Clerk an annual disclosure statement complying with requirements of § 23-10 of this chapter.

§ 23-6 Void contracts.

When any Town officer or employee, or any contracting party, has been found to have violated § 23-4 or 23-5 or 23-10 of this chapter in connection with any contract or agreement entered into by or with the Town, such contract shall be void unless ratified by the Town Board after full disclosure of the facts and circumstances of all violations. No vote to ratify any contract pursuant to this section shall be taken without a report and recommendation of the Ethics Board pursuant to § 23-25D. However, any contract that violates § 801 of Article 18 of the General Municipal Law cannot be ratified and is void.

§ 23-7 Exclusions from standards of conduct and transactional disclosure.

The provisions of §§ 23-4 and 23-5 of this chapter shall not prohibit, or require, recusal or transactional disclosure as a result of:

A.

An action specifically authorized by statute, rule, or regulation of the United States or by State of New York; or

B.

A ministerial act; or

C.

Anything of value identified in § 23-4C(6) as exclusions to the gift provisions under this chapter.

[Amended 8-14-2007 by L.L. No. 39-2007]

D.

Receipt of Town services or benefits, or use of Town facilities, on the same terms and conditions as such services or benefits are available to residents or a class of residents in the Town; or

E.

Representation of constituents by elected Town officials without compensation in matters of public advocacy.

§ 23-8 Inducement of violations.

A.

No person, whether or not a Town officer or employee, shall solicit, importune, direct, induce, attempt to induce, aid or abet a Town officer or employee to violate any provisions of this chapter.

B.

This section applies to all persons, whether or not a Town officer or employee. Pursuant to this chapter, any person found to have violated this section shall be subject to the imposition by the Town Board of civil fines pursuant to Subsection B of § 23-14 of this chapter and subject to debarment pursuant to § 23-15 of this chapter. Any person found to have violated this section may be further subject to additional sanctions, penalties, forfeitures and damages as provided by this chapter and any other applicable law.

§ 23-9 Appearance by outside employers and businesses of Town officers and employees.

A.

Except as provided in Subsection C below, the outside employer or business of a Town officer or employee shall not appear before the Town agency in which the Town officer or employee serves or by which the Town officer or employee is

employed.

B.

Except as provided in Subsection C below, the outside employer or business of a Town officer or employee shall not appear before any Town agency if the Town officer or employee has the authority to appoint any officer, employee or member of the agency or to review, approve, audit or authorize any budget, bill, payment or claim of the agency.

C.

Nothing in this section shall be construed to prohibit the outside employer of business of a Town officer or employee from:

(1)

Appearing on its own behalf, or on behalf of the Town, before a Town agency; or

(2)

Seeking or obtaining a ministerial act; or

(3)

Receiving a Town service or benefit, or using a Town facility, on the same terms on which such service, benefit or facility is available to the public.

§ 23-10 Annual disclosure statement.

[Amended 5-25-2004 by L.L. No. 20-2004 ; 6-12-2007 by L.L. No. 32-2007]

A.

The following Town officers and employees are required to file an annual disclosure statement:

(1)

All elected officials;

(2)

Town agency appointees;

(3)

Assessors as defined in §§ 102(3) and 336 of New York State Real Property Law; and

(4)

Certain Town officers and employees, as set forth in the Town's Administrative Handbook.

B.

Time and place for filing.

(1)

Annual disclosure statements shall be filed with the office of the Town Clerk on or before May 15 of each year.

(2)

New elected officials, Town agency appointees and applicable Town officers and employees shall file their first annual disclosure statements with the office of the Town Clerk within 30 days after appointment and on or before each subsequent May 15 thereafter.

(3)

Additional time to file. Town officials and employees who are required to file an annual disclosure statement may request from the Ethics Board an extension of time to file upon showing of justifiable cause or hardship; provided, however, that such extension may not exceed 60 days.

(4)

Public inspection. Annual disclosure statements required to be filed pursuant to this chapter shall be available for public inspection in the office of the Town Clerk.

C.

Contents of annual disclosure statement.

(1)

The annual disclosure statement shall be upon the form established by the Southampton Town Board by resolution and shall require disclosure, at a minimum, of the information contained in § 812 of Article 18 of the General Municipal Law.

(2)

As specified in § 812 of Article 18 of the General Municipal Law, the Southampton Town Board may require additional detailed items of financial disclosure by subsequent amendment of this section of the Town's Code of Ethics.

(3)

The following additional information is required:

(a)

Any interest that the Town officer or employee has in any contract with the Town.

(b)

Any relative of the Town officer or employee with an interest in any contract with the Town.

(c)

Any interest a Town officer or employee has in any sale or service or property to the Town.

(d)

Any relative of the Town officer or employee with an interest gained by the sale of a service or property to the Town.

(e)

Any interest that the Town officer or employee has in any matter, application, petition, or pending legislation before any Town agency.

(f)

Any relative of the Town officer or employee with an interest in any matter, application, petition, or pending legislation before any Town agency.

(g)

Any appearances to be made before a Town agency or board, representing a private interest.

(h)

In the case of Town officer or employee who has one or more individual campaign committee(s) to support his or her candidacy, re-election or expenses associated with the holding of public office, an addendum to the annual disclosure statement shall be provided listing election campaign contributions to his or her individual campaign committee(s), aggregating \$1,000 or more over the prior 24 months inclusive of the previous, current and future campaigns for public office. "Previous campaign" refers to the prior election cycle for said individual campaign committee. "Current and future campaigns" refers to the present election cycle for a Town officer or employee who is either running for election as a first-time candidate or is seeking re-election or election to another elective office. This listing required pursuant to this subsection shall reflect the twenty-four-month period immediately preceding the filing date of the annual disclosure statement and shall provide the name and address of the contributor, the dates and amounts of the campaign contributions received (including in-kind contributions with fair market values as required under New York State Election Law) and the election year for the election cycle to which said aggregated campaign receipts pertain.

(4)

The annual disclosure statement must contain the notarized signature of the Town officer or employee.

D.

Amendments, corrections and update.

(1)

A Town officer or employee who becomes aware of any changes necessary, misstatement or a deficiency in his or her annual disclosure statement shall file an amendment or correction thereof within 30 days of the date when he or she learns of the misstatement or deficiency. Timely filing of an amendment or correction pursuant to this subsection shall include disclosure of a possible misstatement or deficiency in connection with a request for an advisory opinion pursuant to § 23-27 and shall be deemed a complete defense to any allegations of unethical conduct in connection with the initial misstatement or deficiency.

(2)

Within 30 days of any change in information disclosed pursuant to § 23-10C of this section, the Town officer or employee shall file an updated annual disclosure statement. This subsection may be satisfied by a letter specifying the specific change or changes, filed with the office of the Town Clerk pursuant to § 23-3.

E.

Failure to disclose.

(1)

If a person required to file an annual disclosure statement has failed to file a disclosure statement or has filed a deficient statement, the Ethics Board shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen-day period to make such filing or cure such deficiency and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Ethics Board shall send a notice of delinquency to the reporting person and the Town Board. Any officer or employee who is required to file annual disclosure statements and fails to do so following the notification and cure period set forth in this section may be fined an amount not to exceed \$1,000.

(2).

Such a finding and the imposition of a fine may only be made by the Town Board upon a referral to and recommendation from the Ethics Board.

§ 23-11 Applicant disclosure; generally.

[Amended 6-12-2007 by L.L. No. 32-2007]

A.

This section applies to applicants (as defined in § 23-2) seeking approvals from Town agencies or ministerial acts, as defined in § 23-2.

B.

Disclosure affidavit required; findings.

(1).

In accordance with § 809 of General Municipal Law of the State of New York, every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a subdivision map, site plan, special exception use, request for exemption from a subdivision map or official map, license, or permit, or grant requiring approval from the Town Board or a Town agency pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town shall disclose information pertaining to certain interests by a state officer or officer or employee of the municipality in the application. This includes but is not limited to all applications filed seeking permits, approvals or determinations from the Town Board; Planning Board; Board of Zoning Appeals; Conservation Board; Department of Land Management Building Inspectors and Environmental Analysts; and Department of Public Safety employees authorized to issue permits and licenses under Volume II (Zoning) of the Town Code of the Town of Southampton.

(2).

A Town officer or employee shall be deemed to have an interest in the application when he or she, his or her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them is (a) the applicant; or (b) is an officer, director, partner, or employee of the applicant; or (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or (d) is a party to an agreement with such an applicant, express or implied, whereby he or she may receive any payment or other benefit, whether or not for services rendered, dependent, or contingent upon the favorable approval of such application, petition, or request.

C.

The applicant shall state the information required below on applicant disclosure affidavit forms required by the Board of Ethics.

(1).

The names of any state officer or Town officer or employee who has an interest in the application.

(2).

The names of any relative (as defined in § 23-2) of a Town officer or employee who is (a) the applicant; or (b) is an officer, director, partner, or employee of the applicant; or (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or (d) is a party to an agreement with such an applicant, express or implied, whereby he or she may receive any payment or other benefit, whether or not for services rendered, dependent, or contingent upon the favorable approval of such application, petition, or request.

(3).

The supplemental information required in § 23-12, if applicable.

D.

Manner and place of filing. Disclosure affidavits required to be filed by applicants pursuant to this chapter shall be available for public inspection in the application file maintained by the respective Town agency. In the case of applications and other requests for relief before the Town Board, said disclosure affidavits and application file shall be maintained by the office of the Town Clerk. All applications for agency approvals or ministerial acts, as defined by § 23-2, shall have the disclosure affidavit form attached upon dissemination to the applicant by the respective Town agency.

§ 23-12 Supplemental requirements for applicant disclosure on certain land use applications, licenses, permits, and other forms of relief by Town agency.

[Amended 6-12-2007 by L.L. No. 32-2007]

A.

This section applies to applicants (as defined in § 23-2) seeking approvals from Town agencies or ministerial acts, as defined in § 23-2, as follows:

(1).

Requests for change of zone, amendments to the Zoning Code or Zoning Map, and other relief made to the Town Board;

(2)
Requests for permits for special events and licensing agreements made to the Town Board;

(3)
Requests for approvals and other relief made to the Planning Board, Zoning Board of Appeals and Conservation Board pursuant to the zoning regulations in Volume II of the Town Code of the Town of Southampton.

B.
Supplemental information; findings.

(1)
The Town Board finds that it is necessary to have the following additional information made available by applicants for the aforementioned land use applications or requests for relief, and by owners of the property for the public record:

(a)
Employment compensation. With respect to the applicant, which includes his or her representatives, disclosure of employment or contractual relationships during the preceding 24 months, from the date of the application involving compensation in an amount of \$500 or more, in cash or in-kind, to any Town officer or employee directly or indirectly through a corporation or business interest held by any Town officer or employee. The provision also applies for any such employment compensation for a relative (as defined in § 23-2) of a Town officer or employee.

(b)
Election campaign contributions to Town officers or employees. With respect to the applicant, which includes his or her representatives, disclosure of election campaign contributions aggregating \$500 or more during the preceding 24 months from the date of the application to support the previous, current and/or future campaign for public office of any Town officer or employee, in monetary funds or in kind, to any individual campaign committee or to any political party committee designated to accept donations on such Town official's or employee's behalf as a candidate for public office. "Previous campaign" refers to the prior election cycle for said individual campaign committee. "Current and future campaign" refers to the present election cycle for a Town officer or employee who is either running for election as a first time candidate or is seeking re-election or election to another elective office. Said listing should provide the name and address of the contributor, the dates and amounts of the campaign contributions provided (including in-kind contributions with fair market values as required under New York State Election Law), the name of the individual campaign committee or political party committee, and the election cycle to which said aggregated campaign receipts pertain. The \$500 aggregate threshold is for each individual campaign committee or political party committee for each election cycle.

(c)
With respect to disclosure of election campaign contributions, the following is illustrative:

Name of Contributor	Amount/Date	Name of Campaign Committee
ABC Property Owner	\$250 July 15, 2005	Committee to Re-Elect Supervisor
First Street	\$250 Sept 15, 2006	Committee to Re-Elect Supervisor
New York, NY ZIP	\$500 Aggregate Total	Election Cycle 2006 (2-year term is 05&06)
XYZ Attorney	\$500 July 20, 2005	Local Democratic Committee
Local Street A	\$250 Sept 20, 2005	Local Democratic Committee
Southampton, NY ZIP	\$250 Sept 15, 2006	Local Democratic Committee
	\$1,000 Aggregate Total Election Cycle 2006 (2-year term)	
Applicant Contract Vendee (first item below is in-kind - golf shirt for auction)		

(2)
Nothing herein shall prohibit an applicant, which includes his or her representatives, from requesting such information in writing from the individual candidate committee or political party committee designated to accept contributions on behalf of a candidate or Town official, for purposes of completing a required disclosure affidavit, as such persons and committees are required to maintain accounting records in order to file campaign disclosure statements pursuant to Article 14 of Election Law of the State of New York and said statements are available for public access and database query at <http://www.elections.stat>

Local Street B	\$75 Dec 15, 2005	Committee to Re-Elect Councilman	(3) Nothing herein shall prohibit an applicant, which includes his or her representatives, from providing contributions (in monetary form and/or in-kind) to an individual candidate committee or political party committee designated to accept
Southampton, NY ZIP	\$925 July 15, 2006	Committee to Re-Elect Councilman	
	\$1,000 Aggregate Total Election Cycle 2006 (4-year term - 05 & 06 pertinent only)		

contributions on behalf of a candidate for a Town elective office, as such political activity is protected under First Amendment provisions of the United States Constitution.

§ 23-13 (Reserved)

Editor's Note: Former § 23-13, Disclosure of campaign receipts and expenditures, was repealed 6-12-2007 by L.L. No. 32-2007.

§ 23-14 Penalties; hearings; initiation of actions or proceedings.

A.
Disciplinary action.

(1)
Any Town officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended, or removed from office or employment, and may be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

(2)
In its discretion, after a hearing providing for the due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend disciplinary action pursuant to this section. The recommendation of the Ethics Board shall be made to the Town Board, which is authorized by law to impose such sanctions. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Ethics Board waives its opportunity to make a recommendation and instead refers the matter in writing to the Town Board. If such a referral is made, the Ethics Board shall close the matter.

B.
Civil fine.

(1)
Any person who violates any provision of this chapter may be subject to a civil fine not to exceed \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture pursuant to § 23-14D. A fine may only be imposed by the Town Board or appropriate court of law. A civil fine may not be imposed for a violation of § 23-5A.

(2)
In its discretion, after a hearing providing for the due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend a civil fine not to exceed \$1,500 for each violation upon any person found by the Ethics Board to have violated this chapter. The recommendation of the Ethics Board shall be made to the Town Board and shall be public. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Ethics Board, without recommendation, refers the matter to the appropriate appointing authority, person or body for such action as the Town Board deems appropriate. If such a referral is made, the Ethics Board shall close the matter. The Town Board, in its discretion, is authorized to impose such fine subject to a hearing and any applicable provisions of law and collective bargaining agreements.

C.
Damages.

(1)
Any person who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture pursuant to § 23-14D.

(2)

A finding of damages may only be made by the Town Board or an appropriate court of law.

D.
Civil forfeiture.

(1)
Any person who intentionally or knowingly violates any provision of this chapter may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil fine pursuant to § 23-14B or damages pursuant to § 23-14C. Civil forfeiture shall not be available for a violation of § 23-5A. Treble damages and/or civil forfeiture may only be imposed by the Town Board or a court of appropriate authority.

(2)
The Town Board may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction to obtain civil forfeiture, pursuant to this section.

E.
Misdemeanor. Any person, whether or not a Town officer or employer, who intentionally violates any provision of this chapter shall be guilty of a Class A misdemeanor and, upon conviction thereof, if a Town officer or employee, shall forfeit his or her Town office or employment, subject to any applicable provisions of law and collective bargaining agreements. This subsection shall not apply to a violation of § 23-5A.

F.
Prosecutions. The Ethics Board may refer any information that it receives concerning a possible criminal violation to the appropriate prosecutor or other law enforcement agency. Nothing contained in this chapter shall be construed to restrict the authority of any prosecutor to prosecute any violation of this chapter or of any other law.

G.
Limit on Ethics Board. Nothing in this section shall be construed to permit the Ethics Board to take any action with respect to any alleged violation of this chapter, or of any other law, by the Ethics Board or by any member or staff member thereof.

H.
Town Board response to the Ethics Board. The Town Board shall, within 45 days of receipt of a written referral, pursuant to this section, from the Ethics Board, respond in writing and state in sum and substance the Town Board's intention with respect to the referral.

§ 23-15 Debarment.

A.
Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter shall be prohibited from entering into any contract with the Town for a minimum period of six months but not to exceed three years.

B.
No person, whether or not a Town officer or employee, shall enter into a contract in violation of a bar imposed pursuant to § 23-15A.

C.
Nothing in Subsections A or B above shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, that is generally available to the public.

D.
Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter shall be prohibited for a minimum period of six months but not to exceed three years from applying to the Town for any benefit except for benefits granted by ministerial act of Town officers or employees upon proof of residence.

E.
Under this section, a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

F.
In its discretion and after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law, the Ethics Board may recommend that the Town Board issue an order of debarment, pursuant to this section.

§ 23-16 Injunctive relief.

A.

Any resident, officer, or employee of the Town may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the Town from violating this chapter or to compel an officer or employee of the Town to comply with the provisions of this chapter. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

B.

No action or special proceeding shall be prosecuted or maintained pursuant to § 23-16A unless:

(1)

The plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the Town officer or employee; and

(2)

It shall appear by and as an allegation in the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter; and

(3)

The action or special proceeding shall be commenced within 10 months after the alleged violation occurred.

§ 23-17 Designation of Town officers and employees required to file annual disclosure statements.

Within 90 days after the effective date of this chapter, and during the month of March each year thereafter, the Town Supervisor shall:

A.

Cause to be filed with the Ethics Board a list of the names and offices or positions of all Town officers and employees required to file annual disclosure statements pursuant to § 23-10 of this chapter; and

B.

Notify all such officers and employees of their obligation to file an annual disclosure statement.

C.

Notify all new officers and employees, subject to § 23-10, within 10 days of appointment of their obligation to file an annual disclosure statement within 30 days and on or before May 15 of each year.

§ 23-18 Maintenance of disclosure statements and records.

The Ethics Board shall index and maintain on file for at least seven years all disclosure statements and records filed with the Ethics Board pursuant to this chapter. The Ethics Board shall have discretion regarding where the files are housed; however, the records must be stored in a Town-owned and -operated facility within the Town of Southampton.

§ 23-19 Ethics Board; establishment; qualifications of members; appointment of members; term of office.

A.

There is hereby established an Ethics Board consisting of seven members. The Town Board shall appoint the members of the Ethics Board, all of whom shall be residents of the Town pursuant to Town Code Chapter 61 (Residency Requirements).

[Amended 5-13-2008 by L.L. No. 28-2008]

B.

Of the total membership of the Ethics Board, no more than two shall be registered to vote in the same New-York-State-recognized political party, nor shall more than two be nonaffiliated voters or unregistered to vote. The aforementioned restriction based upon political party affiliation shall not apply to the member who is a current or former Town officer or employee, pursuant to Subsection D below. An Ethics Board member may make campaign contributions and attend campaign events, but may not participate in "political activities" defined herein as distributing campaign literature, circulating designating petitions, selling fundraiser tickets or wearing pins for an election candidate. An Ethics Board member shall promptly resign under the following circumstances: i) when opting to enter campaign races as a candidate for public office; ii) when opting to serve as a campaign manager, consultant, or treasurer for a political party committee or individual election campaign committee; iii) when recusal has become prevalent for such individual for matters before the Ethics Board.

[Amended 5-13-2008 by L.L. No. 28-2008]

C.

No person may be appointed as a member of the Ethics Board who is:

(1)

An officer or committee person of any local, county or state political party, association, club or independent political committee subject to the various regulations and reporting requirements of the State Election Law; or

(2)

A campaign manager, consultant or treasurer for a political party committee or individual election campaign committee; or has served in such capacity during the past twenty-four month period; or

[Amended 5-13-2008 by L.L. No. 28-2008]

(3)

Currently serving as an elected Town officer; or

(4)

Currently a relative of a Town officer or employee; or

[Amended 5-13-2008 by L.L. No. 28-2008]

(5)

Currently having business dealings with the Town or any Town agency, directly or indirectly, either personally or through some firm, association or corporation in which he or she acts in an official capacity, including officers of the Town's Police Benevolent Association (PBA) and Civil Service Employee Association (CSEA).

[Amended 5-13-2008 by L.L. No. 28-2008]

D.

One, but not more than one, member of the Ethics Board shall be an appointed Town officer or employee or former Town officer or employee.

E.

The terms of office of the Ethics Board members shall be four years each, except for the member who is a current or former Town officer or employee who shall have a one-year term, and such terms shall run from January 1 through December 31. The members first appointed following the effective date of this chapter shall be appointed as follows: one to serve a one-year term, one to serve a two-year term, one to serve a three-year term, one to serve a four-year term. Subsequent terms shall be staggered four-year terms, with the exception of the member who simultaneously is a current or former Town officer or employee.

F.

When the term of an Ethics Board member has expired, he or she shall serve as a holdover until his or her successor has been appointed.

G.

The members of the Ethics Board shall not receive compensation but may be reimbursed for reasonable expenses incurred in the performance of their official duties, pending Town Board approval by resolution.

H.

Members of the Ethics Board shall be provided with legal defense and indemnification in accordance with the requirements of Chapter 14, Defense and Indemnification, of the Town Code of the Town of Southampton.

§ 23-20 Ethics Board: vacancies.

When a vacancy occurs in the membership of the Ethics Board, the vacancy shall, within 45 days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Ethics Board shall meet the qualifications set forth in § 23-19 of this chapter.

§ 23-21 Ethics Board: removal of members.

A.

An Ethics Board member may be removed from office upon any of the following grounds:

(1)

Failure to meet the qualifications set forth in § 23-19 of this chapter; or

(2)

Substantial neglect of duty; or

(3)

Gross misconduct in office; or

(4)
Inability to discharge the powers or duties of office; or

(5)
A violation of this chapter.

B.
A member whose removal is under consideration by the Town Board shall be given written notice of the allegations against him or her and shall be provided a reasonable opportunity to reply. A vote of four members of the Town Board in favor of removal shall be necessary for removal of such a member. A member whose removal is under consideration by the Town Board shall, at the member's option, continue to serve as a member of the Ethics Board unless and until the Town Board has voted to remove him or her. A member whose removal is under consideration by the Town Board shall, at the member's option, be afforded a public hearing before the Town Board, at which such member may be represented by counsel, call witnesses in his or her own behalf, and cross-examine witnesses who testify against the member.

§ 23-22 Ethics Board: Chair; meetings.

At its first meeting each year, the Ethics Board shall elect a Chair from among its members. Any action of the Ethics Board must be approved by a majority thereof. The Chair or a majority of the Ethics Board may call a meeting of the Ethics Board.

§ 23-23 Ethics Board: powers and duties.

A.
The termination of a Town officer's or employee's term of office or employment with the Town shall not affect the jurisdiction of the Ethics Board with respect to the requirements imposed on him or her by this chapter.

B.
The Ethics Board shall have the following powers and duties:

(1)
To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this chapter;

(2)
As necessary to carry out its duties under this chapter, the Ethics Board may request the Town Board to designate certain Town staff to provide such clerical services. The Ethics Board may retain outside counsel subject to approval by the Town Board for rates of compensation and total annual budget allocation.

(3)
To review, index, and maintain on file lists of Town officers and employees, and disclosure statements filed with the Ethics Board; pursuant to the applicable provisions of this chapter;

(4)
To review, index, maintain on file, and dispose of sworn complaints alleging violations of this chapter and to make notifications and conduct investigations pursuant to § 23-25;

(5)
To conduct hearings, make recommendations for disciplinary actions and penalties, make referrals, and initiate appropriate actions and proceedings pursuant to § 23-14;

(6)
To grant waivers pursuant to § 23-26;

(7)
To render, index, and maintain on file advisory opinions pursuant to § 23-27;

(8)
To provide training and education to Town officers and employees and to make information concerning this chapter and Article 18 of the General Municipal Law available, to the public and to persons interested in doing business with the Town;

(9)
To develop educational materials and an education program for Town officers and employees concerning the provisions of this chapter and Article 18 of the General Municipal Law.

(10)
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 chapter. The Ethics Board shall periodically review this chapter 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;

(11).

To publish:

(a).

Its advisory opinions in a form that removes personal identifying information concerning all persons who are the subjects of such advisory opinions and decisions, provided that each such person approves the form in which the advisory opinion is published; and

(b).

Its final decisions and referrals and recommendations for disciplinary actions and penalties; and any report and recommendation presented to the Town Board pursuant to this chapter; and

(c).

Its decisions disposing of complaints in which it reached a determination that no violation of this chapter occurred, provided that the published version of any such decision shall be in a form that removes personal identifying information concerning all persons who are the subjects of the complaint and that each such person approves the form in which the advisory opinion is published; and

(12).

To provide for public inspection of certain records pursuant to § 23-29.

§ 23-24 Review of lists, disclosure statements, and applicant disclosure affidavits.

[Amended 6-12-2007 by L.L. No. 32-2007]

A.

The Ethics Board shall review:

(1).

The lists of Town officers and employees, prepared pursuant to § 23-17 of this chapter, to determine whether the lists are complete and accurate. The Board shall add the name of any other officer or employee who the Ethics Board determines should appear on the list pursuant to § 23-10.

(2).

All annual disclosure statements to ensure compliance with the standards as set forth in this chapter and to determine whether any person required to file such a statement has failed to file, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this chapter.

(3).

All transactional disclosure statements.

B.

The Ethics Board may review applicant disclosure affidavits pursuant to §§ 23-11 and 23-12. Upon request from the Ethics Board, a Town agency shall forward copies of applicant disclosure affidavits.

C.

If the Ethics Board determines that an annual disclosure statement or a transactional disclosure statement or an applicant disclosure statement is deficient or reveals a possible or potential violation of this chapter, the Ethics Board shall notify the person in writing of the deficiency or possible or potential violation and of the penalties for failure to comply with this chapter.

§ 23-25 Investigations.

A.

Upon receipt of a written complaint by any person alleging a violation of this chapter or upon determining on its own initiative that a violation of the chapter 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 chapter. Written complaints must be signed by the individual complainant, must be notarized and must include his/her address. 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.

B.

The Ethics Board shall state in writing the disposition of every sworn written complaint it receives and shall set forth the reasons for the disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the Board.

C.

Any person filing a sworn complaint with the Ethics Board, and every person who is named in such a complaint, shall be notified in writing of the disposition of the complaint.

D.

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 § 23-6. 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.

E.

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 chapter, or any other law, the Ethics Board shall promptly transmit to Town Board a copy of the complaint.

§ 23-26 Waivers.

A.

Upon written application and upon a showing of compelling need by the applicant, the Ethics Board may in exceptional circumstances grant the applicant a waiver of any of the provisions of § 23-4, 23-5, 23-9, 23-10, or 23-11 of this chapter; provided, however, that no such waiver shall permit conduct otherwise prohibited by Article 18 of the General Municipal Law of the State of New York.

B.

Waivers shall be in writing and shall state the grounds upon which they are granted. Within 10 days after granting a waiver, the Ethics Board shall file with the Town Clerk a statement setting forth the name of the person requesting the waiver and a general description of the nature of the waiver. All applications, decisions, and other records and proceeding relating to waivers shall be indexed and maintained on file by the Ethics Board.

§ 23-27 Advisory opinions.

A.

Upon the written request of any Town officer or employee or former Town officer or employee, the Ethics Board shall render a written advisory opinion with respect to the interpretation or application of this chapter or of Article 18 of the General Municipal Law of the State of New York, under such rules and regulations as the Ethics Board may deem advisable, and said advisory opinion shall be reviewed by either the Town Attorney, or by legal counsel retained by the Ethics Board. Any other person may similarly request an advisory opinion from the Ethics Board but only with respect to whether his or her own action might violate a provision of this chapter or Article 18 of the General Municipal Law.

B.

Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board in a place of its choosing; however, the records must be stored in a Town-owned and -operated facility within the Town of Southampton.

C.

Any person who has submitted to the Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with § 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this section unless:

(1)

It shall appear by and as an allegation in the petition or complaint that at least six months have elapsed since the filing of the request and that the Ethics Board has failed to file any determination in the matter; and

(2)

The action or special proceeding shall be commenced within 10 months after the submission of the request for the advisory opinion.

D.

No Town officer or employee shall be subject to discipline by the Town or the Town agency that employs him or her for acting, or declining to act, concerning a matter, assignment, decision or task of his or her Town office or employment, if he or she acts, or declines to take action:

(1)

In full compliance with an advisory opinion issued pursuant to this chapter concerning a specific action to be taken or refused; or

(2)

Pending issuance by the Ethics Board of an advisory opinion concerning the specific action to be taken or refused; or

(3)

After placing his or her immediate supervisor on written notice, with two copies thereof filed with the Town Clerk, that his action or refusal to act is based on good-faith reliance upon a specific part of this chapter.

§ 23-28 **Judicial review.**

Any person aggrieved by a decision of the Town Board pursuant to this chapter may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 23-29 **Public inspection of records; public access to meetings; confidentiality of records and witness statements.**

A.

The only records of the Ethics Board that shall be available for public inspection are those whose disclosure is required by Article 6 or Article 7 of the Public Officers Law of the State of New York or by some other state or federal law or regulation.

B.

No meeting or proceeding of the Ethics Board concerning misconduct, malfeasance, or neglect in office by a Town officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

C.

Except as otherwise provided by Article 6 and Article 7 of the New York State Public Officers Law, all requests for advisory opinions, all sworn written complaints, all advisory opinions, all decisions disposing of complaints, all investigative records and files, and all witness statements taken by the Ethics Board or by any person acting on its behalf shall be held in confidence by the Ethics Board and shall not be disclosed by any member of the Ethics Board to any person, except as follows:

(1)

Any information deemed by the Ethics Board to concern a possible criminal violation shall not be confidential for the purpose of disclosing it to the appropriate prosecutor or other law enforcement agency; or

(2)

A sworn written complaint shall not be confidential for the purpose of disclosing it to any person named therein and for the purpose of notifying all such persons of the disposition thereof; or

(3)

A decision disposing of a complaint shall not be deemed confidential for the purpose of disclosing it to the person who made the complaint; or

(4)

A publication made by the Ethics Board pursuant to this chapter; or

(5)

Upon a recommendation to the Town Board for further investigation or upon recommendations of disciplinary action or a civil fine pursuant to § 23-14A or B, the Ethics Board shall turn over all related information, including testimony, to the Town Board. The Town Board shall then be constrained by the same confidentiality standards as those set forth above for the Ethics Board.

§ 23-30 **Completion of present term by Town officer or employee.**

Any Town officer who is in compliance with the 1979 Ethics Code and its subsequent amendments through the year 2001 but is in violation of this chapter at the time of its enactment shall be permitted to complete his/her term of office. At the expiration of the present term, the officer must either resign or resolve the conflict. Any employee who is in compliance with the 1979 Ethics Code but is in violation of this chapter at the time of its enactment shall have one year to either resign or resolve the conflict.

§ 23-31 **Miscellaneous provisions.**

A.

No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.

B.

Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself or herself or any member of his or her family arising

out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C.

If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this chapter.

§ 23-32 Distribution and posting.

[Amended 5-25-2004 by L.L. No. 20-2004]

A.

Within 60 days after the effective date of this chapter, and thereafter as appropriate, the Town Supervisor shall cause a copy of this chapter to be distributed to each Town officer and employee. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of this chapter within 10 days after entering upon the duties of his or her position.

B.

Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.

C.

Posting. In accordance with § 807 of the General Municipal Law, the Town Supervisor shall cause a copy of Article 18 of said law to be kept posted in each public building under the jurisdiction of the Town in a place conspicuous to its officers and employees. Further, in accordance with § 336(2) of the Real Property Tax Law, the Town Supervisor shall cause a copy of § 336 of said law to be kept posted in each public building under the jurisdiction of the Town in which assessors work in a place conspicuous to such assessors. Failure to post any such copy shall have no effect on the duty of compliance with said law or with the enforcement of the provisions thereof.