

A LOCAL LAW to amend Chapter 45 of the Code of the Town of Yorktown entitled “Ethics”

Be it enacted by the Town Board of the Town of Yorktown as follows:

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Chapter 45 of the Code of the Town of Yorktown entitled “Ethics” is hereby amended by:

- *Replacing the definition of INTEREST in § 45-4 with the following language:*

INTEREST — A participation, connection or involvement of any sort which may result in a direct or indirect pecuniary or material benefit, 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. For the purposes of this chapter, the interests of a Town official or employee shall be deemed to include the interests of:

- A. A family member.
- B. Any person, other than a bank, trust company or other lending institution, with whom he or she has a substantial debtor-creditor or other financial relationship.
- C. Any person by whom he or she is employed or of which he or she is an officer, director or member.
- D. Any entity of which the stock or other legal or beneficial ownership is owned by him or her; provided, however, that if the business dealings of such entity with the Town form an insubstantial part of the total business dealings, then this definition shall only apply to such an entity, if the Town official or employee owns more than 5% of the stock or other legal or beneficial ownership of such entity.

- *Replacing the definition of PERSON in § 45-4 with the following language:*

PERSON — Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind.

- *Adding the following definition of RECUSAL to § 45-4 after the definition of OUTSIDE EMPLOYER OR BUSINESS:*

RECUSAL - Recusal means that an official or employee may not deliberate, vote or participate in a matter in which there is a conflict of interest. ~~The official or employee should disclose the conflict and leave the room, area or meeting while the matter is being considered.~~

- *Replacing the definition of TOWN OFFICIAL or EMPLOYEE in § 45-4 with the following language:*

TOWN OFFICIAL or EMPLOYEE — Any official or employee of the Town, whether paid or unpaid, including, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the Town and all former officials and employees acting as independent consultants. The terms "town official" or "employee" shall not include Town Justice.

- *Replacing § 45-5 in its entirety with the following language:*

A. No Town official or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct financial or material benefit on himself or herself, a family member, or any private organization in which he or she is deemed to have an interest as defined in section 45-4.

B. No Town official or employee shall engage in any business or profession or accept private employment or render any service for private interests which creates a conflict with his or her official duties.

C. No Town official or employee shall use or attempt to use his or her official position to give or secure privileges or exemptions for himself or herself or a family member.

D. No Town official or employee shall use any confidential information received by him or her in the course of his or her duties as a Town official or employee to further the interests of himself or herself or others, nor shall any Town official or employee divulge any confidential information so received.

E. No Town official or employee shall, with or without compensation, represent, directly or indirectly, any person or entity in connection with any transaction or contract before any Town body or court.

F. No Town official or employee shall, directly or indirectly, solicit or receive cash or any gift more than once a year having a value of \$75 or more, whether in the form of service, loan, travel, entertainment, hospitality, thing or promise, or in any other form and from any person under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part. Exclusions pursuant to § 45-6C shall apply.

G. A Town official or employee shall not request or authorize anyone else to request any subordinate of the Town official or employee to participate in any election campaign or contribute to any political entity.

H. The chairperson or vice chairperson of a political committee shall not serve as an approval board member.

I. Revolving door. It shall be a presumptive conflict of interest for any former elected Town official, within one year after leaving office, to represent another person or corporation before any Town body. It shall be a presumptive conflict of interest for any former Town official or employee, within one year after leaving service, to represent another person or corporation before any Town body. A former Town official or employee may obtain relief from this presumption by providing evidence that he or she did not work on or influence such application to the degree that such representation before the Town would be a conflict of interest. Nothing in this Subsection I shall be deemed to prohibit former Town officials or employees from appearing before the Town Court.

J. Conflicts of interest and violations regarding applications:

(1) It shall be deemed a conflict of interest requiring recusal for any approval board member to sit in judgment over an application in which he or she has an interest. The official or employee should disclose the conflict and leave the room, area or meeting while the matter is being considered.

(2) Any board member who by his or her official position is acting upon an application in which he or she has no interest but such application involves a family member, a person having previously executed a contract with the board member, or a person having previously transacted business with the board member shall fully disclose this relationship to the public prior to taking any action for an application.

K. No Town official or employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the Town for private business or other compensated nongovernmental purposes.

- *Replacing § 45-6(A) in its entirety with the following language:*

Authorized actions. An action specifically authorized by statute, rule or regulation of the Town, the State of New York or of the United States of America, such as voting on the Town budget.

- *Replacing § 45-8 in its entirety with the following language:*

A. Transactional disclosure.

(1) Whenever a matter requiring the exercise of discretion comes before a Town official or employee, either individually or as a member of an approval board, and disposition of the matter could result in a direct financial or material benefit to himself or herself, a family member, or any private organization in which he or she is deemed to have an interest, the Town official or employee shall disclose in writing the nature of the interest.

(2) The disclosure shall be made when the matter requiring disclosure first comes before the Town official or employee.

(3) In the case of an elected Town official, the disclosure shall be filed with the Town Board. In all other cases, the disclosure shall be filed with the Town Clerk. In addition, in the case of an approval board member, a copy of the disclosure shall be filed with the appropriate board and any

disclosure made to the board shall be made publicly at a meeting of the board and shall be included in the minutes of the meeting.

B. Applicant-related disclosure. Where any person requests the Town or any Town official or employee to take or refrain from taking any action, other than a ministerial act, that may result in a financial benefit both to the requester and to any Town official or employee, the requestor shall disclose, in writing to the Town Clerk, the name of any such person and the extent of such benefit, to the extent known to the requester at the time of the request.

C. Annual disclosure. An annual disclosure statement shall be submitted by each of the following Town officials or employees:

(1) Elected officials.

(2) Head of any board, department or persons authorized to act on their behalf. In relation to the Police Department, this requirement shall extend only to the Chief of Police, Captains and Lieutenants.

(3) Town officials or employees holding policy-making positions, including members of Town boards.

(4) Notwithstanding the foregoing, the individuals holding the following titles or positions (including persons acting in such titles or positions by appointment of the Town Board) shall file an annual disclosure statement:

(a) The following elected officials:

[1] Town Supervisor.

[2] Town Councilpersons.

[3] Town Clerk.

[4] Highway Superintendent.

(b) The individuals holding the following positions:

[1] Assessor.

[2] Town Attorney.

[3] Building Inspector.

[4] Court Clerk.

[5] Environmental Inspector.

[6] Deputy Town Clerk.

- [7] Town Engineer.
- [8] Superintendent of Environmental Conservation.
- [9] Comptroller.
- [10] Deputy Comptroller.
- [11] Human Resources Specialist.
- [12] Director, Section 8 Housing Program.
- [13] Library Director.
- [14] Director, Nutrition Center.
- [15] Superintendent of Parks and Recreation.
- [16] Director of Planning.
- [17] Police Chief.
- [18] Police Captain.
- [19] Police Lieutenant.
- [20] Receiver of Taxes.
- [21] Distribution Superintendent (Water Department).
- [22] Deputy Highway Superintendent.

(c) The appointed members of the following boards:

- [1] Planning Board.
- [2] Zoning Board.
- [3] Board of Assessment Review.
- [4] Library Board of Trustees.
- [5] Parks and Recreation Commission.
- [6] Board of Ethics.
- [7] Community Housing Board.

D. Annual disclosure; timing and content. The annual disclosure shall be provided to Town officials and employees by ~~January-February~~ 15 and returned to the Town Clerk no later than ~~March-April~~ 15

of each year and amended within 30 days of any material change in the information so disclosed. The annual disclosure shall contain the information required in the disclosure form set forth below:

E. Confidentiality of disclosure forms.

(1) All forms are to be kept confidential subject to applicable law.

(2) The Town Clerk will hold filed financial disclosure forms in a sealed envelope in a locked cabinet and shall provide forms to the Ethics Board for annual review. Once the envelopes are opened by the Ethics Board, the annual disclosure forms shall remain in the custody of the Board of Ethics. The Board of Ethics shall promptly make available to the Town Attorney all documents in its possession, including annual disclosure forms, upon written request, in order for the Town Attorney to fulfill official duties of the Town.

(3) When a FOIL request is made seeking disclosure of a financial disclosure form, the response to the FOIL request is to be forwarded to the Ethics Board for determination as to what must be redacted.

(4) The Ethics Board shall redact any information that poses no conflict of interest and has no relationship to official duties of the employee or Town official.

- *Replacing § 45-9 in its entirety with the following language:*

There is hereby established a Board of Ethics to consist of five members. Board of Ethics members shall reside in the Town. No more than a majority minus one shall be registered in the same political party. Members shall be appointed by the Town Board and shall serve for a term of three years commencing January 1 until December 31, with the terms staggered such that no more than the terms of two members begin in the same year. Consecutive service shall not exceed three full terms. When a vacancy occurs, it shall be filled within 60 days for the unexpired portion of the term. However, members shall serve until his or her successor has been appointed. The members shall receive no salary or compensation for their services as members of such Board and shall serve at the pleasure of the Town Board.

- *Replacing § 45-10 in its entirety with the following language:*

A. Jurisdiction. The Board shall act only with respect to officials and employees of the Town of Yorktown.

B. Meetings. The Board shall meet at a minimum of once a year to review the annual disclosure form, when matters are referred to it, and to fulfill its duties.

C. Powers and duties. The Board shall render advisory opinions to the Town Board under such rules and regulations as the Board may prescribe. Such advisory opinions shall be rendered pursuant to a written request of the Town Board or an employee or official of the Town, or a written signed complaint concerning an alleged violation of the Ethics Code from any person. In the case of such a written complaint, the Board may only review the matters raised in said complaint—it may not review matters outside the four corners of the complaint. However, if during the investigation of a written complaint, the Board has a good faith basis to believe that violations not raised in the written

complaint exist, it may refer such matters to the Town Attorney without taking any investigative action on its own. The Board may seek the advice of the Town Attorney. In addition, the Board shall have the following powers and duties:

(1) Make recommendations to the Town Board with respect to the drafting and adoption of amendments to the Code of Ethics.

(2) Render advisory opinions to the Town Board, Town officials and employees. Such advisory opinions shall be rendered pursuant to the written request of any Town official or employee under such rules and regulations as the Board of Ethics may prescribe and shall have the advice of the Town Attorney.

(3) Subject to approval of the Town Board, prescribe rules and regulations governing its own internal organization and procedures in a manner consistent with this chapter.

(4) Periodically review the laws governing the conduct of Town officials and employees and recommend changes to those laws.

(5) Review annual disclosure statements to determine whether any person required to file such a statement has failed to do so, has filed a deficient statement or has filed a statement that reveals a possible or potential violation of this chapter.

(6) Notify the Town Board where review of an annual disclosure statement finds a deficiency or a potential violation of this chapter.

(7) Investigate all complaints and referrals concerning possible violations of this chapter.

(8) Elect its own Chairperson.

- *Replacing § 45-12 in its entirety with the following language:*

The Board of Ethics, with the assistance of the office of the Town Attorney shall lead all investigations necessary to enforce this chapter. If the complainant or the target of an ethics complaint is a Town Board member or the Town Supervisor, the Town Attorney determines that his or her involvement in the investigation is inappropriate, and the Ethics Board requires the assistance of legal counsel to complete the investigation, the Ethics Board may request that the Town Board appoint outside counsel for that purpose. The Ethics Board shall render its advisory opinion concerning the investigation to the Town Board. The Town Board shall announce at a public meeting said advisory opinion within 60 days of the receipt of the advisory opinion. At the discretion of the Town Board, the name and identifying information of the subject of the investigation may be redacted.

- *Replacing § 45-13 in its entirety with the following language:*

A. Meetings of the Board of Ethics shall be open to the public unless expressly provided otherwise herein or by applicable law or when the Board is in closed/executive session. Board of Ethics discussions and proceedings about specific complaints concerning potential violations and

recommended disciplinary action, annual disclosure statements, advisory opinions (draft and final form), and the substance thereof, shall be kept confidential.

B. Personal information exempted under the Freedom of Information Law shall not be made available to the public.

C. The following documents shall be made available to the public:

(1) All internal rules and regulations prescribed by the Board.

(2) All educational and informational materials.

• *Replacing § 45-19 in its entirety with the following language:*

A. The Town Clerk shall cause copies of this chapter to be distributed to every Town official and make them readily available to the public. The Human Resources Office shall cause copies of this chapter to be distributed to every employee.

B. Every Town official or employee elected, appointed or hired shall be delivered a copy of this chapter within 10 days after entering upon the duties of his or her position. Failure to have been delivered a copy of this chapter shall have no effect in the duty of compliance or the enforcement of the provisions of this chapter.

C. Within 10 days of receiving a copy of this chapter, all officials and employees shall sign a form indicating that they have received and read this chapter and shall return said form to the Town's Human Resources office for inclusion in their personnel file or, in the event they do not have a personnel file, to the Town Clerk.

• *Adding the following new § 45-20 entitled "Confidentiality.":*

Any unauthorized disclosure of confidential information, by a Town official or employee, shall constitute a violation of this Chapter.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.