

LOCAL LAW NO. 7 OF 2024

A LOCAL LAW to consider repealing the existing Town Code Chapter 23 (Code of Ethics) and replacing it in its entirety with a new Town Code Chapter 23 (Code of Ethics).

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

Section 1. Legislative Intent.

Article 18 of New York State General Municipal Law ("GML") establishes standards of conduct for the officers and employees of a Town, and prohibits them from having certain conflicts of interest. More particularly, §806 of GML requires the governing body of each town to adopt an Ethics Code that provides for the guidance of its officers and employees standards of conduct reasonably expected of them.

Indeed, an Ethics Code adopted by the governing body of a Town must set forth standards of conduct for the guidance of the officers and employees of said Town with respect to conflicts of interest, the holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable. Because the existing Code of Ethics was adopted over twenty years ago - by Local Law No. 76 of 2003 - the Town Board of the Town of Southampton recognizes that now is a good time to review said Code, and propose changes as necessary in order to better serve its officers, employees, and the public alike. In this way, the Board seeks to ensure both the reality and the appearance of integrity in Town government, and to thereby foster public confidence in Town government.

Section 2. Amendment.

Town Code Chapter 23 (Code of Ethics) is hereby repealed in its entirety.

Section 3. Amendment.

Town Code Chapter 23 (Code of Ethics) is hereby replaced in its entirety by adding the following underlined words:

CHAPTER 23
CODE OF ETHICS

Article I - General Provisions

- §23-1. Purpose.
- §23-2. Definitions.
- §23-3. Applicability.

Article II - Code of Conduct

- §23-4. Use of Town Position for Personal or Private Gain.
- §23-5. Recusal.
- §23-6. Prohibition Inapplicable; Recusal and Disclosure Not Required.
- §23-7. Prohibited Interests in Contracts.
- §23-8. Investments in Conflict with Official Duties.
- §23-9. Private Employment in Conflict with Official Duties.
- §23-10. Future Employment.
- §23-11. Independent Contractors.
- §23-12. Personal Representations and Claims Permitted.

- §23-13. Use of Town Resources.
- §23-14. Nepotism.
- §23-15. Political Solicitations.
- §23-16. Confidential Information.
- §23-17. Gifts, Tips and other Benefits.
- §23-18. Inducement of Others.

Article III - Disclosure

- §23-19. Particular Matter Disclosure.
- §23-20. Disclosure of Interests in Town Contracts.
- §23-21. Applicant Disclosure in Land Use Applications.
- §23-22. Annual Financial Disclosure.

Article IV - Board of Ethics

- §23-23. Board of Ethics.
- §23-24. Powers and Duties of the Board of Ethics.

Article V - Miscellaneous

- §23-25. Existing Rights and Remedies.
- §23-26. Posting and Distribution.

ARTICLE I. GENERAL PROVISIONS

§23-1. Purpose.

Officers and employees of the Town of Southampton hold their positions to serve and benefit the public, and not to obtain unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town of Southampton recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Chapter establishes those standards.

§23-2. Definitions.

“Interest” means a direct or indirect financial 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. A Town officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or dependent, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s equity or debt, whether in the form of outstanding stock or otherwise.

Relative” means a spouse, registered domestic partner, child, stepchild, dependent, parent, grandparent, stepparent, sibling, stepsibling, child-in-law or parent-in-law of a Town officer or employee.

§23-3. Applicability.

- A. This Chapter applies to all officers and employees of the Town of Southampton, whether paid or unpaid, including the members of any Town department, agency, board or commission.

- B. Article II, Section 23-10 (Future Employment) of this Chapter applies to current and former officers and employees of the Town.
- C. Article II, Section 23-11 (Independent Contractors) of this Chapter applies to independent contractors of the Town.
- D. Article II, Section 23-12 (Personal Representations and Claims Permitted) and Article II, 23-18 (Inducement of Others) of this Chapter apply to officers and employees of the Town and independent contractors of the Town.
- E. Article III, Section 23-21 of this Chapter (Applicant Disclosure in Land Use Applications) applies to applicants, petitioners or parties requesting a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any local law, rule or regulation constituting the zoning and planning regulations of the Town.
- F. The provisions of this Chapter shall supplement all applicable State and local laws relating to conflicts of interest and municipal ethics including, but not limited to, Article 18 of the General Municipal Law and all related rules, regulations, policies and procedures of the Town of Southampton.
- G. The termination of an officer's or employee's term of office or employment with the Town shall not affect the jurisdiction of the Board of Ethics or the Town Board with respect to the requirements imposed by this Chapter on the former officer or employee for his or her actions or interests while a Town officer or employee.

ARTICLE II. CODE OF CONDUCT

§23-4. Use of Town Position for Personal or Private Gain.

No Town officer or employee shall use his or her Town position or official powers and duties to secure a material benefit, whether financial or otherwise, for:

- a. Himself or herself,
- b. A Relative or member of his or her household,
- c. Any private organization in which he or she has an Interest,
- d. A client or customer from which the officer or employee knows that he or she, his or her outside employer, firm, limited liability company, partnership or association, or corporation in which he or she is the owner of more than five percent of the outstanding corporate stock, directly or indirectly derived income in excess of one thousand dollars (\$1,000) during the previous twenty-four months, or
- e. A person from whom the officer or employee has received a private loan or loans, or a gift or gifts, having an aggregate value of five hundred dollars (\$500) or more during the previous twelve months.
- f. A person or entity from which the officer or employee, or a political committee authorized by the officer or employee, has received aggregate

campaign contributions in excess of five thousand dollars (\$5,000) within the preceding twenty-four months. For the purposes of this Subsection 23-4(f), the terms "political committee" and "contributions" shall have the meaning given to them by the New York Election Law.

§23-5. Recusal.

No Town officer or employee shall participate in any decision or take any official action requiring the exercise of discretion, including discussing, deliberating or voting on a matter, when he or she knows or has reason to know that the action may confer a direct or indirect, material, financial or other benefit on a person or entity specified in Section 23-4 of this Chapter.

§23-6. Prohibition Inapplicable; Recusal and Disclosure Not Required.

The requirements relating to recusal set forth in Section 23-5 of this Chapter, and the disclosure requirements set forth in Section 23-19 (Particular Matter Disclosure):

A. of this Chapter, shall not apply with respect to the following matters:

1. Adoption of the Town's annual budget;
2. Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a similarly situated class of such people:
 - a. All or substantially all Town officers or employees;
 - b. All or substantially all residents or taxpayers of the Town or an area of the Town; or
 - c. The general public;
3. Any ministerial matter (a matter that does not require the exercise of discretion).
4. Uncompensated participation by a member of the Town Board, or by a Town Board member's staff on behalf of such member, in public advocacy whether or not on behalf of a constituent.
5. Appearance by a Town employee before a Town department, agency, board or commission in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by the employee organization.
6. Uncompensated participation in public advocacy by a Town officer or employee who serves as a political party chairperson.

B. Recusal shall not be required, but disclosure pursuant to Section 23-19 of this Chapter shall be required, with respect to any matter:

1. Which comes before a board or commission when a majority of the entire membership of the board or commission would otherwise be prohibited from acting; or

2. Which comes before a Town officer when the officer would be prohibited from acting and the matter cannot be lawfully delegated to another person.

§23-7. Prohibited Interests in Contracts.

- A. No Town officer or employee shall have an Interest in any contract with the Town, when such officer or employee, individually or as a member of a board or commission, has the power or duty, whether or not exercised, to:
 - (1) Negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
 - (2) Audit bills or claims under the contract, or
 - (3) Appoint an officer or employee who has any of the foregoing powers or duties.
- B. For the purposes of this Section, the term "contract" means any claim, account or demand against or agreement with the Town, express or implied.
- C. Notwithstanding the foregoing, for the purposes of this Section, the term "contract" shall not include:
 - (1) The designation of a bank or trust company as a depository, paying agent, registration agent or for investment of Town funds except when the chief fiscal officer, treasurer, or his deputy or employee, has an Interest in such bank or trust company; provided, however, that where designation of a bank or trust company outside the Town would be required because of the foregoing restriction, a bank or trust company within the municipality may nevertheless be so designated;
 - (2) A contract with a person, firm, corporation or association in which a Town officer or employee has an Interest which is prohibited solely by reason of his or her status as an officer or employee thereof, if the compensation from such employment will not be directly affected as a result of the contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of the contract;
 - (3) The designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law;
 - (4) The purchase by the Town of real property or an Interest therein, provided the purchase and the consideration therefor is approved by order of the supreme court upon petition of the Town Board;
 - (5) The acquisition of real property or an Interest therein, through condemnation proceedings according to law;
 - (6) A contract with a membership corporation or other voluntary nonprofit corporation or association;

- (7) The sale of bonds and notes pursuant to Section 60.10 of the Local Finance Law;
- (8) A contract in which a Town officer or employee has an Interest if such contract was entered into prior to the time he or she was elected or appointed as such officer or employee, but this paragraph shall in no event authorize a renewal of any such contract;
- (9) A contract with a corporation in which a Town officer or employee has an Interest by reason of stockholdings when less than five per cent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee;
- (10) A contract for the furnishing of public utility services at rates or charges that are fixed or regulated by the public service commission;
- (11) A contract for the payment of a reasonable rental of a room or rooms owned or leased by a Town officer or employee, used in the performance of his or her official duties, and designated as an office or chamber;
- (12) A contract for the payment of a portion of the compensation of a private employee of an officer when such employee performs part time service in the official duties of the office;
- (13) A contract in which a Town officer or employee has an Interest if the total consideration payable thereunder, when added to the aggregate amount of all consideration payable under contracts in which such person had an Interest during the fiscal year, does not exceed the sum of seven hundred fifty dollars; or
- (14) A contract with a member of a private industry council established in accordance with the federal job training partnership act or any firm, corporation or association in which such member holds an Interest, provided the member discloses such Interest to the council and the member does not vote on the contract.

§23-8. Investments in Conflict with Official Duties.

- A. No Town officer or employee shall acquire or maintain any investment:
 - (1) The ownership of which requires that the Town officer or employee frequently and inevitably recuse himself or herself; or
 - (2) That would impair his or her independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This Section shall not prohibit a Town officer or employee from acquiring or maintaining the following:
 - (1) Real property located within the Town and used as his or her personal residence;
 - (2) Less than five percent of the stock of a publicly traded

corporation; or

- (3) Bonds or notes issued by the Town and acquired more than one year after the date on which the bonds or notes were originally issued.

§23-9. Private Employment in Conflict with Official Duties.

- A. No elected Town official or Town employee serving as staff to the Town Board or to a Town Board member, shall receive or agree to receive, directly or indirectly, any compensation for consulting or advisory services in connection with any proposed local law or resolution of the Town Board.
- B. No Town officer or employee shall ask for, pursue or accept a private secondary employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board or commission, while the matter is pending or within the 30 days following final disposition of the matter.
- C. No Town officer or employee, during his or her tenure as a Town officer or employee, shall engage in any secondary employment, or engage in any business, commercial, or professional activity, when the secondary employment or business, commercial or professional activity:
 - (1) Involves duties that are incompatible with those of the official duties of the Town officer or employee;
 - (2) May be reasonably expected to require frequent and inevitable recusal;
 - (3) May be reasonably expected to require disclosure or personal use of confidential information gained by reason of serving as a Town officer or employee;
 - (4) Pursuant to which the officer or employee will receive, or enter into any agreement, express or implied, to receive compensation for services to be rendered in connection with any matter before any Town department, agency, board or commission of which he or she is an officer, member or employee or of any Town department, agency, board or commission over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee;
 - (5) Pursuant to which the officer or employee will receive, or enter into any agreement, express or implied, to receive compensation for services to be rendered in connection with any matter before any Town department, agency, board or commission, whereby his or her compensation is to be dependent or contingent upon any action by such department, agency, board or commission with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered; or
 - (6) Involves the representation of a person or organization other than the Town in connection with any application, request, claim or proposal before any Town department, agency, board or commission, or in connection with

any litigation, negotiations or matter requiring the exercise of discretion to which the Town is a party; or

- (7) Pursuant to which the officer or employee will receive, or enter into any agreement, express or implied, to receive compensation for services rendered in connection with any application, request, claim or proposal before any Town department, agency, board or commission, or in connection with any litigation, negotiations or matter requiring the exercise of discretion to which the Town is a party.

- D. Notwithstanding the foregoing, a person serving the Town or any agency thereof without compensation shall not be subject to the prohibitions set forth in subdivisions (6) or (7) of this Section.

§23-10. Future Employment.

- A. No Town officer or employee shall ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Town officer or employee, either individually or as a member of a board or commission, while the matter is pending or within the 30 days following final disposition of the matter.
- B. No Town officer or employee, for the one-year period after serving as a Town officer or employee, shall appear before or communicate in any form with the Town office, board, department or comparable organizational unit for which he or she served, except on behalf of the State or a political subdivision or instrumentality thereof, or in furtherance of the interests of the Town with the approval of the Board of Ethics upon application of his or her former Town department, agency, board or commission.
- C. No Town officer or employee, at any time after serving as a Town officer or employee, shall represent or render services to a private person or organization in connection with any particular matter in which he or she personally and substantially participated while serving as a Town officer or employee, except on behalf of the State or a political subdivision or instrumentality thereof, or in furtherance of the interests of the Town with the approval of the Board of Ethics upon application of his or her former Town department, agency, board or commission.

§23-11. Independent Contractors.

No independent contractor or employee of an independent contractor of the Town shall seek to exert undue influence, or to obtain an undue preference, on behalf of a private interest, directly or indirectly, in a matter before any Town department, agency, board or commission. A violation of this Section shall be cause for termination of the independent contractor's engagement with the Town.

§23-12. Personal Representations and Claims Permitted.

This Chapter shall not be construed as prohibiting a Town officer or employee or an independent contractor of the Town from:

1. Seeking or accepting Town services, benefits, or the use of Town facilities, on

the same terms and conditions as are available to Town residents or a class of similarly situated Town residents.

2. Representing, without compensation, himself or herself, a Relative, or a member of his or her household before a Town department, agency, board or commission other than the one served by the Town officer, employee or independent contractor; or
3. Asserting a claim against the Town on his or her own behalf, or on behalf of a Relative or member of his or her household, unless the claim is prohibited by Section 23-2 of this Article, or by Section 801 of the New York General Municipal Law.

§23-13. Use of Town Resources.

- A. Town resources shall be used only for lawful Town purposes. Town resources include, but are not limited to, Town personnel, compensated time, money, vehicles, equipment, letterhead, materials, supplies, telephone, internet and electronic communication services, or other Town property.
- B. No Town officer or employee shall use or permit the use of Town resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) Any use of Town resources authorized by law, Town policy or collective bargaining agreement to which the Town is a party;
 - (2) The use of Town resources for personal or private purposes when provided to a Town officer or employee as part of his or her compensation; or
 - (3) The occasional and incidental use of Town telephones and computers for necessary personal, non-business matters such as family care and changes in work schedule.
- C. No Town officer or employee shall use or permit the use of Town resources for political campaign activities.
- D. No Town officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§23-14. Nepotism.

Except as otherwise required by law:

1. No Town officer or employee, either individually or as a member of a Town Board or commission, shall participate in any decision to appoint, hire, promote, discipline or discharge a Relative or a member of his or her household.
2. No Town officer or employee shall directly supervise a Relative or member of his or her household in the performance of such person's official duties.

§23-15. Political Solicitations.

- A. No Town officer or employee shall directly or indirectly use his or her authority or official influence to compel or induce a subordinate Town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- B. No Town officer or employee shall act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any Town officer or employee, or an applicant for a position as a Town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§23-16. Confidential Information.

- A. No current or former Town officer or employee shall disclose confidential information concerning the property, government or affairs of the Town or any other confidential information of an official character obtained as a result of Town employment except when disclosure is required by law or when such information is otherwise available to the public, nor shall he or she use such information to advance the financial or other private interest of himself or herself or others.
- B. For the purpose of this Section, "Confidential Information" shall include, without limitation, information that is prohibited from disclosure by federal or state law, or that the Town, in the lawful exercise of the discretion granted to it by New York Public Officers Law Article 6 (Freedom of Information Law), New York Public Officers Law Article 7 (Open Meetings Law), or other applicable authority, has determined to withhold from public disclosure.

§23-17. Gifts, Tips and other Benefits.

- A. No Town officer or employee shall directly or indirectly solicit any gift, tip or other benefit from a person who has received or sought a financial benefit from the Town within the previous twenty-four months.
- B. No Town officer or employee shall accept any gift, tip or other benefit from a person who the Town officer or employee knows or has reason to know has received or sought a financial benefit from the Town within the previous twenty-four months.
- C. No Town officer or employee shall solicit, accept or agree to accept any gift, tip or other benefit for having engaged in official conduct which he or she was required or authorized to perform, and for which he or she was not entitled to any special or additional compensation.
- D. No Town officer or employee shall accept or receive any gift, tip or other benefit having a value of seventy-five dollars (\$75) or more, or multiple gifts, tips or other benefits from the same donor in a twelve-month period, having an aggregate value of seventy-five dollars (\$75) or more when:
 - (1) the gift, tip or other benefit would reasonably appear to be intended to influence the officer or employee in the exercise or performance of his or her official duties;

- (2) the gift, tip or other benefit would reasonably be expected to influence the officer or employee in the exercise or performance of his or her official duties; or
 - (3) the gift, tip or other benefit would reasonably appear to be intended as a reward for any official action on the part of the officer or employee.
- E. For purposes of this Section, a "gift, tip or other benefit" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift, tip or other benefit shall be deemed to be its fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be deemed to be the face value of the ticket, or the actual cost to the donor, whichever is greater.
- F. Notwithstanding the foregoing, this Section shall not prohibit:
- (1) Gifts made to the Town and duly accepted on the Town's behalf;
 - (2) Gifts from a person with a family or personal relationship with the officer or employee when it is reasonable to conclude that the personal relationship, rather than the recipient's status as a Town officer or employee, is the primary motivating factor for the gift;
 - (3) Gifts given on non-recurring special occasions, such as marriage, illness, or retirement, which are reasonable and customary;
 - (4) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
 - (5) Awards and plaques having a value of less than seventy-five dollars which are publicly presented in recognition of service as a Town officer or employee, or other service to the community; or
 - (6) Complimentary attendance and incidental meals and refreshments provided when a Town officer or employee is a speaker or participant at a job-related professional, charitable, educational, or community conference, program or event;
 - (7) Gifts or benefits having a value of one hundred (\$100.00) dollars or less that are received by a Town officer or employee serving in a capacity listed in Section 11 of the Domestic Relations Law for the solemnization of a marriage by the officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business;
 - (8) Gifts or benefits having a value of seventy-five (\$75.00) dollars or less that are received by a marriage officer appointed by the Town Board pursuant to Section 11-c of the Domestic Relations Law and serving without salary or wage, for the solemnization of a marriage by the officer or employee.

§23-18. Inducement of Others.

No Town officer, employee or independent contractor shall induce a Town officer, employee or independent contractor to violate, nor aid a Town officer, employee or independent contractor in violating, any of the provisions of this Chapter.

ARTICLE III. DISCLOSURE

§23-19. Particular Matter Disclosure.

Whenever a Town officer or employee is required to recuse himself or herself under this Chapter, he or she: (1) shall promptly inform his or her immediate supervisor, if any, and the Board of Ethics; and (2) shall promptly file with the Town Clerk a signed statement disclosing the reason for recusal or, if a member of a board or commission that maintains a public record of its proceedings, shall promptly state that information upon the public record of the board or commission.

§23-20. Disclosure of Interests in Town Contracts.

- A. Where a Town officer or employee, or his or her spouse, knows that he or she has or will have an Interest in any actual or proposed contract, purchase agreement, lease agreement, or other agreement, including oral agreements, with the Town, the officer or employee shall publicly disclose the nature and extent of that Interest in writing to his or her immediate supervisor and to the Board of Ethics as soon as he or she has knowledge of the actual or prospective Interest.
- B. For purposes of this disclosure requirement:
 - (1) The term "contract" shall mean any claim, account or demand against or agreement with the Town, express or implied; and
 - (2) A Town officer or employee shall be deemed to have an Interest in the contract of his or her Relative or household member, and any private organization when he or she, or his or her Relative is an owner, partner, member, director, officer, employee or directly or indirectly owns or controls more than 5% of the organization's equity or debt, whether in the form of outstanding stock or otherwise.

§23-21. Applicant Disclosure in Land Use Applications.

- A. Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any local law, rule or regulation constituting the zoning and planning regulations of the Town shall state the name, residence, and the nature and extent of the interest of any officer of the state, or any officer or employee of the County of Suffolk or of the Town, in the person or entity making the application, petition or request to the extent known.
- B. For the purpose of this disclosure requirement, an officer or employee shall be deemed to have an interest in the applicant when he or she, his or her spouse, domestic partner, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
 - (1) Is the applicant, or

- (2) Is an officer, director, partner, or employee of the applicant, or
- (3) Legally or beneficially owns or controls stock of a corporate applicant or is a member of a limited liability company, partnership, or association applicant (except that ownership of less than five percent of the stock of a publicly traded corporation shall not constitute an interest for the purposes of this disclosure requirement, or
- (4) Is a party to an agreement with such an applicant, express or implied, whereby he or she will receive any payment or other benefit, whether or not for such services rendered, dependent or contingent upon the favorable approval of such application, petition or request.

§23-22. Annual Financial Disclosure.

- A. Persons required to file annual statements of financial disclosure. The following Town Officers and Employees ("individually and collectively, "Reporting Person") shall file an annual statement of financial disclosure with the Board of Ethics:
 - (1) Elected Town officials,
 - (2) Department heads, deputy department heads, and division heads,
 - (3) Attorneys serving in the Town Attorney's office,
 - (4) Candidates for elective Town office,
 - (5) Town Officers or Employees holding a policymaking position.
- B. Policymaking positions. For the purposes of this Section, a person shall be considered to hold a policymaking position if he or she exercises responsibilities of a broad scope in the formulation of plans for the implementation of goals or policy for a local agency or acts as an advisor to an individual in such a position. In determining whether a person holds a policymaking position, the following factors shall be considered, applied to the powers and duties of the position as set forth in the job description or any applicable law or regulation as well as the actual duties performed by the person:
 - (1) Whether the position permits meaningful input into the governmental decision-making process on issues where there is room for principled disagreement on goals or their implementation;
 - (2) Whether the powers and duties of the position are broadly defined and require more than the exercise of simple ministerial competence;
 - (3) Whether the position permits the person to exercise control over other officers or employees;
 - (4) Whether the position involves the establishment of priorities or the development of programs;
 - (5) Whether the position requires or authorizes the conducting of studies or entails a significant degree of involvement in the preparation of budgets or budget requests for a local agency or municipality;

- (6) Whether the position authorizes the person to speak on behalf of local elected officials or other policymakers;
 - (7) Whether the position entails frequent contact with local elected officials or their principal deputies.
- C. Form of statement.
- (1) All Reporting Persons shall file a disclosure statement in a form as adopted, and amended from time to time, by resolution of the Town Board.
 - (2) The Board of Ethics shall recommend any amendments to the forms of financial disclosure statement that it deems warranted or that may be required by law, and shall submit such recommended amendments, in the form of a resolution, to the Town Board for consideration.
- D. Time for filing.
- (1) Reporting Persons other than candidates for elected Town office shall file financial disclosure statements for the preceding calendar year with the Board of Ethics on or before May 15 of each year.
 - (2) Candidates for Town elective office shall file financial disclosure statements with the Board of Ethics within thirty days of nomination or designation pursuant to the applicable provisions of the New York Election Law.
- E. Designation of officers and employees required to file annual disclosure statements.
- (1) Within ninety days after the effective date of this Chapter, and no later than the last day of March of each year thereafter, the Town Human Resources Office shall: (i) cause to be filed with the Board of Ethics a list of the names and offices or positions of all officers and employees of the Town required to file annual disclosure statements pursuant to this Chapter; and (ii) notify all such officers and employees of their obligation to file an annual disclosure statement.
 - (2) Any person designated as a person required to file an annual disclosure statement solely by reason of holding of a policymaking position as that term is used in this Chapter, may apply to the Board of Ethics for reconsideration of his or her filing status and the Board of Ethics may, upon reconsideration, grant an exemption from filing based upon the criteria set forth herein.
- F. Maintenance and public inspection of disclosure statements.
- (1) The Town Clerk shall transmit promptly to the Board of Ethics each disclosure statement filed with the Clerk pursuant to this Chapter.
 - (2) All statements filed with the Board of Ethics shall be available for public inspection and copying; except that:
 - (a) The Board of Ethics may, on its own initiative, to the extent permitted by the Freedom of Information Law (Article 6 of the New York Public Officers Law) withhold from public disclosure particular information, the

disclosure of which would constitute an unwarranted invasion of personal privacy; or

- (b) A Reporting Person may request that such information be withheld from public disclosure, and the Board of Ethics, in its discretion, may grant such request to the extent permitted by the Freedom of Information Law (Article 6 of the New York Public Officers Law).

G. Review of lists and disclosure statements.

(1) The Board of Ethics shall review:

- (a) The lists of officers and employees required to file annual disclosure statements pursuant to this Chapter, to determine whether the lists are complete and accurate. The Board of Ethics shall add the name of any other officer or employee which the Board of Ethics determines should appear on the list and shall remove the name of any officer or employee which the Board of Ethics determines should not appear on the list.

- (b) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this Chapter.

- (c) All transactional disclosure statements.

- (d) All applicant disclosure statements.

- (2) If the Board of Ethics determines that an annual disclosure statement, a transactional disclosure statement, or an applicant disclosure statement is deficient or reveals a possible or potential violation of this Chapter, the Board of Ethics 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.

ARTICLE IV. BOARD OF ETHICS

§23-23. Board of Ethics.

- A. There is hereby established a Board of Ethics for the Town. The Board of Ethics shall consist of five members, appointed by the Town Board. The members of the Board of Ethics shall receive no salary or compensation for their services as members of the Board of Ethics.

- B. The Town hereby exercises its authority under the New York Municipal Home Rule Law to supersede Section 808(2) of the New York General Municipal Law as follows. The members of the Board of Ethics serving at the time of enactment of this Local Law shall continue in office until the expiration of their respective terms. Thereafter, members of the Board of Ethics shall serve for fixed, staggered terms of five years; with the first members so appointed serving for terms of five years, four years, three years, two years, and one year, respectively.

- C. No member of the Board of Ethics shall otherwise be an officer or employee of the Town.

- D. No more than two members of the Board of Ethics shall be enrolled members of the same political party.
- E. No member of the Board of Ethics shall be an officer or member of a state, county or town party committee, as defined by the New York Election Law.
- F. The Board of Ethics shall meet at least once each quarter.
- G. The Board of Ethics shall elect a Chairperson from among its members at the first meeting of each year.
- H. The Board of Ethics shall have the confidential advice of legal counsel employed by the Town Board or, if none, the Town Attorney, and the services of a confidential secretary employed by the Town.

§23-24. Powers and Duties of the Board of Ethics.

- A. The Board of Ethics shall have the following powers and duties:
 - (1) To prescribe and promulgate rules of procedure for the discharge of its duties;
 - (2) To review, index, and maintain on file, and make available for public inspection and copying, lists of officers and employees required to file annual disclosure statements, particular matter disclosure statements, applicant disclosure statements, and annual disclosure statements filed with the Board of Ethics pursuant to this Chapter;
 - (3) To grant exemptions from filing annual statements of financial disclosure from persons designated as policymakers based on the criteria set forth in the Chapter;
 - (4) To grant exemptions from disclosure of identifying client or customer information to the extent permitted by the Freedom of Information Law (Article 6 of the New York Public Officers Law). In determining a request for such an exemption, the Board of Ethics may consider, among other things, such advisory opinion as the reporting individual may obtain from the applicable professional ethics authority. In addition, the Board of Ethics may consider the nature and size of the client or customer; the significance of the application, request, claim or interest in any proposal or matter before the Town; whether the disclosure may reveal trade secrets; whether disclosure may reasonably be expected to create a risk of retaliation against the client or customer; whether disclosure may cause undue harm to the professional relationship between the reporting person and the client or customer; and whether disclosure may result in an undue invasion of the privacy of the client or customer.
 - (5) To review, index, maintain on file, and dispose of complaints and to make notifications and conduct investigations pursuant to this Chapter;
 - (6) To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to this Chapter;

- (7) To grant waivers pursuant to this Chapter;
- (8) To render, index, and maintain on file advisory opinions pursuant to this Chapter;
- (9) To provide ethics training and education to Town officers and employees;
- (10) To prepare an annual report and recommend changes to this Chapter; and
- (11) To provide for public inspection and copying of its records, subject to the terms and conditions set forth in this Chapter and in the Freedom of Information Law (Article 6 of the New York Public Officers Law).

B. Investigations.

- (1) Upon receipt of a complaint by any person alleging a violation of this Chapter, any applicable State or local law relating to conflicts of interest and municipal ethics including, but not limited to, Article 18 of the General Municipal Law, or any related rule, regulation, policy or procedure of the Town of Southampton, or upon determining on its own initiative that any such violation may exist, the Board of Ethics shall have the power and duty to conduct such investigation as it deems necessary or appropriate to carry out the provisions of this Chapter.
- (2) The Board of Ethics shall acknowledge receipt of all complaints that it receives, and shall proceed with reasonable promptness to conduct such investigations thereof as it deems necessary or appropriate.
- (3) In conducting investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of books or records that it deems relevant and material.
- (4) Complainants shall be afforded such whistleblower protections as may be provided by law, including but not limited to the protections set forth in New York Civil Service Law §75-b and New York Labor Law §740, to the extent applicable.
- (5) The Board of Ethics shall state in writing the disposition of every complaint that it receives and of every investigation that it conducts and shall set forth the reasons for the disposition. All such statements and all complaints shall be indexed and maintained on file by the Board of Ethics.
- (6) Any person filing a complaint with the Board of Ethics shall be notified in writing of the disposition of the complaint, to the extent permitted by law.
- (7) All documents and hearings relating to the investigation and hearing of any alleged violation of this Chapter shall be confidential and not available for public inspection or open to the public, except as otherwise required by this Chapter or by the Freedom of Information Law (Article 6 of the New York Public Officers Law). All dispositions, including negotiated dispositions, in which the Board of Ethics finds a violation of this Chapter shall be available for public inspection and copying.
- (8) Nothing in this Section shall be construed to permit the Board of Ethics to

conduct an investigation of itself or of any of its members or staff. If the Board of Ethics receives a complaint alleging that the Board of Ethics or any of its members or staff has violated any provision of this Chapter, or of any other law, the Board of Ethics shall promptly transmit to the Town Board a copy of the complaint.

- C. Assessment of penalties; referral for prosecution.
 - (1) Civil fine. In its discretion after a hearing providing for due process procedural mechanisms, the Board of Ethics may assess a civil fine, not to exceed ten thousand (\$10,000) dollars for each violation, upon any Town officer, employee or independent contractor found by the Board of Ethics to have violated this Chapter. The civil fine shall be payable to the Town.
 - (2) Referral to Prosecutor. The Board of Ethics may refer to the appropriate prosecutor any matter that, in the judgment of the Board of Ethics, might involve criminal misconduct. Nothing contained in this Chapter shall be construed to restrict the authority of any prosecutor or the attorney general to prosecute a violation of this Chapter or of any other law. If such a referral is made, the Board of Ethics shall defer taking any further action in the matter pending a determination by the prosecutor that the matter will or will not result in a prosecution.
- D. Recommendation of other sanctions. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Board of Ethics may recommend that the Town Board impose one or more of the following sanctions:
 - (1) Disciplinary action. The Board of Ethics may recommend that the Town impose appropriate disciplinary action.
 - (2) Damages. The Board of Ethics may recommend that the Town initiate an action in the Supreme Court of the State of New York to obtain monetary damages.
 - (3) Civil forfeiture. The Board of Ethics may recommend that the Town initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York to obtain civil forfeiture.
 - (4) Debarment. The Board of Ethics may recommend that the Town initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York for an order of debarment.
 - (5) Injunctive relief. The Board of Ethics may recommend that the Town initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York for injunctive relief to enjoin a violation of this Chapter or to compel compliance with this Chapter.
- E. Nothing in this Section shall be construed to permit the Board of Ethics to take any action with respect to any alleged violation of this Chapter, or of any other law, by the Board of Ethics or by any member or staff member thereof.
- F. Nothing in this Section shall be construed to permit the Board of Ethics to take any action which would violate the terms of any collective bargaining agreement to which

the Town is a party.

G. Waivers.

- (1) Upon written application by a current or former Town officer, employee or independent contractor, and upon written approval by his or her agency head, the Board of Ethics may grant the applicant, or his or her private employer or business, a waiver of any of the provisions of Sections 23-4 (Use of Town position for personal or private gain), 23-6 (Recusal), 23-8 (Investments in conflict with official duties), 23-9 (Private employment in conflict with official duties), 23-10 (Future employment), 23-14 (Nepotism), and 28-17(b) and (d) (Gifts) of this Chapter, where the Board of Ethics finds that waiving such provision would not be in conflict with the purposes and interest of the Town, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.
- (2) Waivers shall be in writing, shall state the grounds upon which they are granted, and shall be available for public inspection and copying. All applications, decisions, and other records and proceedings relating to waivers shall be indexed and maintained on file by the Board of Ethics.

H. Advisory opinions.

- (1) Upon the written request of any current or former Town officer, employee or independent contractor inquiring about himself or herself, or upon the request of the head of a Town department, agency, board or commission inquiring about a person subject to his or her supervision, the Board of Ethics shall render a written advisory opinion with respect to the interpretation or application of this Chapter, any applicable State and local laws relating to conflicts of interest and municipal ethics including, but not limited to, article 18 of the General Municipal Law, and all related rules, regulations, policies and procedures of the Town of Southampton, to the future, continuing or recurring conduct or interests of such Town officer, employee, independent contractor or his or her outside employer or business.
- (2) Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Board of Ethics. The Board of Ethics shall publish such of its advisory opinions as it believes will provide guidance to other Town officers or employees, provided, however, that the publicly available copy of such opinions shall contain such deletions as may be necessary to prevent disclosure of the identity of the involved officer, employee, independent contractor or his or her outside employer or business. Advisory opinions and requests for advisory opinions shall otherwise be confidential and not available for public inspection or open to the public, except as required by this Chapter or by the Freedom of Information Law (Article 6 of the New York Public Officers Law).

I. Training and education.

The Board of Ethics:

- (1) Shall make information concerning this Chapter available to the officers, employees and independent contractors of the Town, to the public, and to

persons interested in doing business with the Town; and

- (2) Shall develop educational materials and an educational program on the provisions of this Chapter for the officers, employees and independent contractors of the Town, for the public, and for persons interested in doing business with the Town.
- (3) The Town Supervisor shall assist the Board of Ethics in the publication, posting, and distribution of a plain language guide and other ethics information and educational materials, including but not limited to posting such ethics information and educational material on the Town website, and in the development and presentation of ethics educational programs.
- (4) Each Town officer and employee shall receive a copy of this Code of Ethics, and ethics training, in such form as determined by the Board of Ethics, within six months of the effective date of this Code of Ethics or within six months of his or her election or appointment, whichever is later. Thereafter, all persons holding elective Town office, department heads, deputy department heads, and persons employed by the Town as attorneys shall receive in-person ethics training at least biennially; all other Town officers and employees shall receive ethics training, in such form as determined by the Board of Ethics, at least biennially.

J. Annual reports; review of ethics laws.

- (1) The Board of Ethics shall prepare and submit an annual report to the Town Board summarizing the activities of the Board of Ethics. The report may also recommend changes to the text or administration of this Chapter.
- (2) The Board of Ethics shall periodically review this Chapter and the administrative procedures promulgated by the Board of Ethics, to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear, reasonable and enforceable standards of conduct.

ARTICLE V. MISCELLANEOUS

§23-25. Existing Rights and Remedies.

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

§23-26. Posting and Distribution.

- A. The Town Supervisor shall promptly cause a copy of this Chapter, and a copy of any amendment to this Chapter, to be posted publicly and conspicuously in each building under the Town's control. The code shall be posted within ten days following the date on which the code takes effect. Any amendment to this Chapter shall be posted within ten days following the date on which the amendment takes effect.
- B. The Town Supervisor shall promptly cause a copy of this Chapter, including any amendments to the code, to be distributed to every person who is or becomes an officer, employee or independent contractor of the Town.
- C. The failure to post this Chapter or any amendment to the code shall not affect either

the applicability or enforceability of the code or the amendment. The failure of a Town officer or employee to receive a copy of this Chapter or an amendment to this Chapter, shall not affect either the applicability or enforceability of the code of ethics or amendment to the code.

Section 4. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10(1)(ii)(a)(12), as well as General Municipal Law Article 18.

Section 5. Severability.

If any section, subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgement made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

Section 6. Effective Date.

Upon its filing with the Secretary of State pursuant to Municipal Home Rule Law, this local law shall take effect immediately.