CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF

Chapter 13, ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Carmel 3-7-2001 by L.L. No. 2-2001 (Ch. 22 of the 1972 Code). Amendments noted where applicable.]

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-1. Declaration of policy.

§ 13-1. Declaration of policy.

The proper operation of the Town government requires that its officers and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; that public officers and employees observe in their official acts the highest standards of ethics and discharge faithfully the duties of their public office regardless of personal consideration; and that the public have confidence in the integrity of its government and the officers and employees thereof. It is the policy of the Town of Carmel and the purpose of this chapter to establish standards and guidelines for ethical conduct of officers and employees. Though assurance of such conduct will continue to rest primarily on personal integrity and community vigilance, the establishment of standards is another step toward providing the highest caliber of public administration for the Town and ensuring that government decisions are arrived at impartially and free of conflict of interests and thereby increasing confidence in public officials. It is also the purpose of this chapter to protect officials and employees from unwarranted assaults on their integrity by separating real conflict from the inconsequential, recognizing that for local government to attract and hold competent administrators, public service must not require a complete divesting of all proprietary interests. In recognition of these goals, there is hereby established a Code of Ethics for all officers and for all employees of the Town of Carmel, hereinafter referred to as the "Town." In the event of any conflict between the provisions of this code and provisions of Article 18 of the General Municipal Law, the latter shall control.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-2. Definitions.

§ 13-2. Definitions.

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

BOARD OF ETHICS -- The Board of Ethics created under this chapter.

CONFIDENTIAL INFORMATION -- Any information which by law or practice is not available to the public.

CONFLICT OF INTEREST -- When the Town official or employee uses his official office or position of employment for the purpose of obtaining a pecuniary and/or other benefit for himself to the detriment of the interests of the Town government and/or impairs the proper discharge of official duties or employment.

CONTRACT -- Any claim, account or demand against or agreement with the Town, express or implied.

INTEREST

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

   (1) His spouse or children.

   (2) Any person, other than a bank, trust company or other lending institution, with whom he has a substantial debtor-creditor or other financial relationship.

   (3) Any person by whom he is employed or of which he is an officer, director or member.

   (4) Any person of which the stock or other legal or beneficial ownership is owned by him; provided, however;

B. For the purpose of this chapter, an officer or employee shall also be deemed to have an interest in a matter if he or any person described in Subsection A(1) through (4) above is a party to an agreement, expressed or implied, with any applicant before any board of the Town, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of any such application, petition or request by any Town Body.

OFFICIAL ACT OR ACTION -- Any legislative, administrative, quasi-judicial, appointive or discretionary act of a Town official or employee or a Town body.

PERSON -- Any individual, business proprietorship, corporation, partnership, association,

venture, individual in representative or fiduciary capacity, estate, trust or other entity.

TOWN -- The Town of Carmel.

TOWN BODY -- The Town of Carmel or any board, commission, district, council or other agency, department or unit thereof.

TOWN OFFICER OR EMPLOYEE -- Any officer or employee of the Town, whether full- or part-time or whether or not compensated for his or her services, including members of any Town body. No person shall be deemed to be an officer or employee solely by reason of being a volunteer fireman or civil defense volunteer.

TRANSACTION -- Any activity, application or proceeding which requires or may require an official act or action of a Town officer or employee or a Town Body.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-3. Standards of conduct.

§ 13-3. Standards of conduct.

A. No officer or employee of the Town shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation or any nature, which is in conflict with, or might reasonably tend to conflict with, the proper discharge of his duties in the public interest. Any officer or employee who has a direct or indirect financial or other private interest in any matter before any board of the Town shall publicly disclose in writing on the official record of such board the nature and extent of such interest prior to participating in the discussion or before making a recommendation or giving an opinion to such board on such matter.

B. No officer or employee or the Town shall represent private interests before any board, department, office or agency of the Town, nor represent private interests in any action or proceeding against the interests of the Town or in any litigation to which the Town is a party. The preceding sentence shall not preclude any such officers or employees from appearing in the performance of public or civic obligations or on their own behalf with respect to matters of a personal nature. All appearing parties before any board of the Town shall make a disclosure as provided under § 809 of Article 18 of the General Municipal Law. 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 ordinance, local law, rule or regulation constituting the zoning and planning regulations of the Town in which a Town officer or employee has an interest as defined in

this chapter shall state the name, residence and the nature and extent of the interest of any officer or employee of the Town, in the person, partnership or association making such application, petition or request.

C. No officer or employee of the Town shall accept any gift having a value of $50 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, from any person, firm or corporation which is interested directly or indirectly in any manner whatsoever, in business dealings with the Town or 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. No officer or employee of the Town shall grant in the discharge of his duties any improper favor, service or thing of value. Nothing contained herein shall be deemed to prohibit any officer or employee of the Town from borrowing money from any bank or banks designated as depositories by the Town Board. The fifty-dollar limit applies to an aggregate total of gifts made over a period of 12 months.

D. No officer or employee of the Town shall:

(1) Accept employment or engage in any business or professional activity which will require him to disclose confidential information.

(2) Disclose any confidential information or use confidential information to further his personal interests or the personal interests of others.

E. No officer, employee or appointee of the Town shall invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create a conflict between his public duty and his private interest.

F. No officer or employee of the Town shall take official action upon any questions in which he or any member of his immediate family has an interest.

G. No officer or employee, whether paid or unpaid, shall engage in or accept private employment or render services for private interests when such employment or service is in conflict with the proper discharge of his official duties.

H. No officer or employee of the Town shall accept employment by any person, firm or corporation with which he or his department, office or agency is engaged on behalf of the Town in the transaction of business which is or may be affected by his official action. The provisions herein shall be limited to a period of two years for any officer or employee after termination of employment. No officer or employee of the Town shall, after the termination of service or employment with the Town, appear before any board or agency of the Town in

relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

I. No officer or employee of the Town shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others or grant any special consideration, treatment or advantage to any citizens beyond that which is available to every other citizen.

J. No officer or employee of the Town shall, by his conduct, give reasonable basis for the impression that any person can unduly influence him or improperly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.

K. No officer or employee of the Town shall direct or cause any officer or employee of the Town to do or perform any service or work outside of public work or employment, or accept any such service or work, nor shall any officer or employee of the Town offer to or perform any such service or work for such officer or employee.

L. No officer or employee of the Town shall request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit. When such vehicles, equipment, materials or property are provided as Town policy and by order of the Town administration for the use of such officer or employee, they may be used only in the conduct of official business.

M. No person who holds any Town position shall directly solicit, accept or receive any contribution for any political party or any candidate for public office including himself from any other officer or employee of the Town or from any person, firm or corporation which is interested directly or indirectly, in any manner whatsoever, in business dealings with the Town.

N. The Town Attorney or Town Counsel shall accept no employment from any person, firm, partnership, corporation, municipality or other entity which will create a conflict of interest or the appearance of a conflict of interest with the interests of the Town of Carmel.

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§ 13-4. Eligibility for appointment to boards.

A. Any person who holds an office or leadership position (defined as chairman, president, vice chairman, vice president, treasurer, comptroller, secretary or any other title or position of

authority whose duties include those commonly recognized as the duties of those official titles or positions) in a political party, as defined in the Election Law of the State of New York, § 1-104, Subdivision 3, specifically excluding official positions and titles of authority in political party structures on the state or national level, shall not be eligible for appointment to the Planning Board, the Zoning Board of Appeals, the Assessment Board of Review, the Architectural Board of Review, the Environmental Conservation Board or the Board of Ethics of the Town of Carmel.

B. Any person who holds the chief executive position (defined as chairman, president or any other title or position of authority whose duties include those commonly recognized as the duties of those official titles or positions) in any organization, a purpose of which is to represent the interests of a geographic area that is inclusive of part but not all of the Town of Carmel, shall not be eligible for appointment to the Planning Board, the Zoning Board of Appeals, the Assessment Board of Review, the Architectural Board of Review, the Environmental Conservation Board or the Board of Ethics of the Town of Carmel.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-5. Financial disclosure statements.

§ 13-5. Financial disclosure statements.

A. The following classes of officers or employees of the Town of Carmel shall be required to file annual financial disclosure statements between May 1 and May 31 of each year in form as contained in Exhibit A attached hereto[EN(1)]:

(1) All elected officials.

(2) All commissioners.

(3) All department heads.

(4) Members of the Zoning Board of Appeals, Planning Board, Architectural Review Board, Environmental Conservation Board, Board of Ethics, Board of Assessment Review and Recreation and Parks Commission.

B. Said forms shall be filed with the Town Clerk and shall be available for public inspection.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-6. Board of Ethics.

§ 13-6. Board of Ethics.

A Board of Ethics is hereby established pursuant to § 808 of Article 18 of the General Municipal Law to be composed of five members, none of which may be officers or employees of the Town. The members of the Board of Ethics shall be appointed by the Town Board to serve at the Town Board's pleasure and shall receive no salary or compensation for their services as members of such Board.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-7. Powers and duties.

§ 13-7. Powers and duties.

A. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the municipal officers and employees of the Town of Carmel, pursuant to a written request, with respect to Article 18 of the General Municipal Law.

B. The Board shall render advisory opinions to municipal officers and employees with respect to this code pursuant to a written request by a municipal officer or employee. In no event shall the identity of the municipal officer or employee be disclosed.

C. An advisory opinion regarding this Code of Ethics shall be provided to the person requesting same. Opinions shall be forwarded by the Board of Ethics to the Town Supervisor and Town Councilpersons of the Town of Carmel following the rendering of such opinion. The Town Board shall arrange to circulate said opinions to all employees for their information and have said opinions posted on the Town Bulletin Board. [Amended 2-5-2003 by L.L. No. 2-2003]

D. In addition to the other powers and duties granted to the Board of Ethics, the Board shall have the authority to receive from any person a written complaint questioning the compliance of any Town officer or employee with the provisions of this article. The Board of Ethics may prescribe a form for such complaint. The Board of Ethics may on its own motion conduct an inquiry of an officer or employee's alleged noncompliance with the provisions of the Code of Ethics upon receipt of substantial, reliable evidence, including, but not limited to, documents, written material, or other forms of proof. The Board of Ethics shall also have the power to initiate complaints as a result of information discovered during the course of its duties.

E. The Town Board of the Town of Carmel hereby empowers the Town of Carmel Board of Ethics with the authority to take testimony under oath recognizing that false statements given

under oath will be forwarded to the Putnam County District Attorney for possible criminal prosecution.

F. The Board of Ethics shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and proceedings in compliance with state statute. All such rules and regulations shall be in compliance with applicable state statutes, shall guarantee due process and shall be reviewed and approved by the Town Counsel. The procedure for receipt and investigation of complaints shall be as follows:

(1) The written complaint must be signed, must include the individual complainant's address, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).

(2) The written complaint shall be filed with the Board of Ethics. Upon receipt of said complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the officer or employee who is the subject of the complaint and the Town Counsel.

(3) The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine in writing whether there is probable cause for the complaint. In the event that the Board of Ethics should find no probable cause for the complaint, the complaint shall be dismissed by the Board of Ethics sua sponte. The Board of Ethics shall then notify the complainant, the officer or the employee who is the subject of the complaint and the Town Board of the disposition of the complaint.

(4) In the event that the Board of Ethics should find probable cause for the complaint, the Board of Ethics shall forward to the Town Board a copy of its probable cause decision together with any information and documentation acquired by the Board of Ethics regarding the complaint.

(5) The Board of Ethics shall then conduct an investigation and hearing on said complaint.

(6) Upon the request of a majority vote of the total voting membership of the Board of Ethics, the Board may issue subpoenas to compel the attendance of necessary witnesses and the production of documents and other materials pertinent to the investigation. The Town Counsel will assist the Board in the preparation and issuance of subpoena(s).

(7) The officer or employee who is the subject of the complaint shall have the right to be represented by counsel at any required appearance before the Board of Ethics.

(8) A copy of the transcript of the testimony of the officer or employee who is the subject of

the complaint shall be provided at no cost to the officer or employee.

(9) The Board of Ethics may require a written sworn response from the officer or employee who is the subject of the complaint in lieu of an appearance before the Board of Ethics.

(10) After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:

(a) The members of the Board of Ethics may obtain legal advice from the Town Counsel or special counsel as the case may be; and

(b) The members of the Board of Ethics may discuss the complaint among themselves;

(c) If any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.

(11) At the conclusion of its investigation and hearing on said complaint, the Board of Ethics shall then furnish the complainant, the officer or the employee who is subject of the complaint and the Town Board of the disposition of the complaint and its recommendation for action made to the Town Board. The Town Board shall take official action by public vote on such recommendation received from the Board of Ethics in regard to a complaint within 30 days of receipt and shall, immediately following the taking of such action, make it, including the recommendation of the Board of Ethics, public. [Amended 2-5-2003 by L.L. No. 2-2003]

G. All actions, decisions and recommendations of the Board of Ethics shall be by majority vote of the entire membership.

H. The Town of Carmel Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18 of the General Municipal Law of the State of New York.

I. To the extent allowed by law, the Town of Carmel Board of Ethics shall be exempt from the Freedom of Information Law and from the Open Meetings Law.

J. Discussions held in Executive Session shall remain confidential and will not be disclosed.

K. Except to the extent such records must be disclosed under the Freedom of Information Law and except as provided in § 13-7F(11), the complaint, records and other proceedings related thereto shall remain confidential. [Amended 2-5-2003 by L.L. No. 2-2003]

L. The members of the Board of Ethics shall have the right to obtain opinions from qualified people other than themselves, provided that the majority of the members of the Board of Ethics agree with such a course of action and the names of the individuals involved in the complaint are withheld.

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§ 13-8. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any violation of the provisions of this Code of Ethics shall constitute cause for suspension or removal from office or employment or such other disciplinary action as the Town Board may consider advisable after any hearing required pursuant to law currently in effect.

CODE OF THE TOWN OF CARMEL, NEW YORK, v2 Updated 10-15-2006 / PART I: ADMINISTRATIVE LEGISLATION / Chapter 13, ETHICS, CODE OF / § 13-9. Distribution of code.

§ 13-9. Distribution of code.

The Town Supervisor shall cause a copy of Article 18 of the General Municipal Law and this Code of Ethics to be distributed to every officer and employee of the Town. Every officer or employee shall sign a written receipt indicating receipt of said documents. Said original receipts shall be filed in the Town Clerk's office and a photocopy shall be filed in the officer's or employee's personnel folder and with the Board of Ethics.

KENNETH SCHMITT
Town Supervisor

ROBERT J. RAVALLO
Town Councilman
Deputy Supervisor

FRANK D. LOMBARDI
Town Councilman
SUZANNE MC DONOUGH
Town Councilwoman

TOWN OF CARMEL
TOWN HALL

60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 • Fax (845) 628-6836
www.carmelny.org

ANN GARRIS
Town Clerk

KATHLEEN KRAUS
Receiver of Taxes

MICHAEL SIMONE
Superintendent of Highways
Tel. (845) 628-7474

Ethics Board

Anthony Battista, Chairman
11 Bucyrus Avenue
Carmel NY 10512 845-276-2932

Michael Barnett
206 West Lake Boulevard
Mahopac NY 10541 845-628-4370

Thomas Honohan
61 Astor Drive
Mahopac NY 10541 845-628-5264

Giulio Cefeloni
98 Breckenridge Road
Mahopac NY 10541 845-628-1641

Dr. Lisa Rucker
7 Gleneida Road
Mahopac NY 10541 845-628-8797