

Town of Putnam Valley, NY  
Tuesday, November 22, 2011

## Chapter 17. CODE OF ETHICS

**[HISTORY: Adopted by the Town Board of the Town of Putnam Valley 7-19-2006 by L.L. No. 5-2006. Editor's Note: This local law stated that it supersedes any inconsistent provision of Subdivision 1 of § 808 of the General Municipal Law. Said local law also repealed former Ch. 17, Code of Ethics, adopted 6-16-1999 by L.L. No. 6-1999. Amendments noted where applicable.]**

### § 17-1. Purpose.

The proper operation of a Town government requires that its officers and employees be independent, impartial, and accountable 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. All officers and employees shall conduct themselves in a professional and respectable manner towards the public and one another. Realizing what is legal is not necessarily ethical, it is the policy of the Town of Putnam Valley 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 interest, thereby increasing confidence in public officials. It is also the purpose of this chapter to protect officials and employees from unwarranted accusations that impugn their integrity by distinguishing material conflicts of interest from those that are inconsequential, recognizing that for local government to attract and hold competent and public servants, 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 employees of the Town of Putnam Valley, hereinafter referred to as the "Town." In the event of any conflict or inconsistency between the provisions of this code and provisions of Article 18 of the General Municipal Law, this code shall prevail, except that nothing in this code shall authorize conduct otherwise prohibited by Article 18 the General Municipal Law.

### § 17-2. Definitions.

When used in this chapter, and unless otherwise expressly stated or unless the context otherwise requires, the following terms shall have the meanings indicated throughout:

#### **APPEAR**

Communicate in any form, including personally, through another person, by letter, by telephone, or otherwise.

#### **CHIEF FISCAL OFFICER**

The Town Supervisor or other officer possessing similar fiscal powers and duties.

#### **CONFIDENTIAL INFORMATION**

Information in any format that is either: prohibited by federal or state law from disclosure to the public; or prohibited from disclosure by local law, ordinance, or resolution of the municipality, and exempt from mandatory disclosure under the New York State Freedom of Information Law ("FOIL") and the New York State Open Meetings Law. *Editor's Note: See Articles 6 and 7, respectively, of the Public Officers Law.*

#### **CONTRACT**

Any claim, account or demand against or agreement with the Town of Putnam Valley, expressed or implied, including the designation of a depository of public funds and the designation of an official newspaper.

#### **INTEREST**

A pecuniary or material benefit accruing to an officer or employee as the result of a contract, or a business or professional transaction with the Town. For the purposes of this chapter, an officer or employee shall be deemed to have interest in the affairs of:

- A. His or her spouse, in-law, domestic partner, co-habitant, child, stepchild, sibling, parent and grandparent;
- B. A firm, partnership, or association of which such officer or employee is an owner, member, officer, director or employee; and
- C. A corporation, of which 5% or more is owned or controlled directly or indirectly by such officer or employee or his or her spouse, in-law, domestic partner, co-habitant, child, stepchild, sibling, parent and grandparent.

#### **OFFICER OR EMPLOYEE**

An officer or employee of the Town of Putnam Valley, whether paid or unpaid, including members of any administrative board, commission, contract employees, or other agency thereof. No person shall be deemed to be an officer or employee solely by reason of being a volunteer firefighter, volunteer ambulance corps member or emergency management volunteer.

#### **§ 17-3. Ethical standards of conduct.**

- A. Appearance of impropriety. Officers and employees of the Town of Putnam Valley, by their conduct, shall avoid any appearance of impropriety.
- B. Interest in contract. No officer or employee shall have an interest, direct or indirect, in any contract with the Town when such officer or employee, individually or as a member of a board, has the power or duty to:
  - (1) Negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
  - (2) Audit bills or claims under the contract; or
  - (3) Appoint an officer or employee who has any of the powers or duties set forth above.
- C. Preparation assistance. No officer or employee who in his or her official position influences decisions relating to the approval of plans and specifications for public or private construction, or who is charged with the responsibility of inspections of such construction or who is charged with the responsibility of recommending that such facilities be approved or accepted by the Town, or its agency, shall estimate the cost of such jobs for contractors or suppliers or engage in the survey, design or layout of the plans for such public or private facilities for or on behalf of such contractors or suppliers.
- D. Private interest. A Town officer or employee shall not use his or her official position, office, or Town property or resources (e.g., official letterhead), nor take or fail to take any official action in a manner which he or she knows or has reason to know may result in a personal or financial benefit, or otherwise further the private interest of the Town officer or employee; his or her outside employer or business; his or her spouse, in-law, domestic partner, co-

habitant, child, stepchild, sibling, parent or grandparent; or his or her customer or client.

E. Political interest. No Town Board member or other elected official may use his or her authority over Town property, resources or personnel to further or inhibit the political interests of any candidate for public office. No other Town officer or employee may use his or her official position, office, or authority over Town property, personnel or resources (e.g., official letterhead), nor take or fail to take any official action, to further or inhibit the political interests of any candidate for public office.

F. Disclosure of interest.

(1) Any officer or employee who has, will have or later acquires an interest, direct or indirect, in any actual or proposed contract with or matter before the Town or any of its agencies, boards or commissions shall promptly disclose, in writing, to the Town Board, the Supervisor, and the Board of Ethics, the nature and extent of such interest. Such written disclosure shall be made part of and shall be set forth in the official record of the proceedings of such body.

(2) Disclosure in certain applications. Every application, petition or request submitted to any legislative, administrative, advisory board, commission, official, committee member, or employee of the Town, pursuant to the provision of any ordinance, local law, rule or regulation of the Town, shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of the Town or the County of Putnam in the application, petition or request being made to the extent known to such applicant.

(3) Any officer or employee of the Town of Putnam Valley must comply with any and all other disclosure requirements contained in other provisions of state or town law.

(4) Any officer or employee of the Town of Putnam Valley who also serves in any other Town or county position shall disclose that information, in writing, to the respective agency, board, or commission, the Town Board, and to the Board of Ethics.

(5) Disclosure of campaign contributions. Any officer or employee who individually or whose duly constituted campaign committee has, in the most recent election cycle, received contributions of \$250 or more from a firm or person with an interest in any matter before an agency, board, or commission of the Town shall promptly disclose, in writing, to the respective agency, board or commission, the Town Board, and to the Board of Ethics, the date, amount, and recipient of such contribution. Such written disclosure shall be made part of and shall be set forth in the official record of the proceedings of such body.

(6) Disclosure of interest in pending legislation. Any officer or employee of the Town who has a private interest in any proposed legislation pending before the Town Board shall publicly disclose, in writing, on the official records of the Town Board the nature and extent of such private interest.

G. Recusal.

(1) Officers and employees shall recuse themselves from participation in discussions, deliberations, or voting in any matter in which they have an actual or potential interest prohibited by this code.

(2) Officers and employees shall recuse themselves in matters involving individuals or applicants who contributed, or whose principals contributed, \$250 or more to individuals

or their duly constituted campaign committee of said officer or employee during the most recent campaign cycle as defined in the New York State Elections Law.

H. Gifts and favors.

- (1) No officer or employee of the Town shall accept gifts or favors (including advertising items), whether in the form of services, loans, goods or promises or in any other form, having an aggregate value of more than \$75 in any twelve-month period, from any person, firm or corporation which he or she knows is interested directly or indirectly in business or professional dealings with the Town.
- (2) Gifts between coworkers shall be limited to those of nominal value.
- (3) Supervisors shall discourage gifts from their subordinate employees.
- (4) If an officer or employee receives a nonperishable gift in violation of this code, he or she shall return it.
- (5) If an officer or employee receives a perishable gift in violation of this code, he or she shall notify the Board of Ethics, contribute the perishable gift to a charitable organization within the Town, and shall disclose, in writing, to the donor the disposition of the gift.

I. Outside employment. No officer or employee of the Town shall have outside employment or investments that create a conflict with his or her official duties.

J. Disclosure of confidential information. No officer or employee of the Town shall disclose confidential information concerning the property, government, or affairs of the Town, or its citizens, or any other confidential information of an official or unofficial character, except when permitted or required by law, nor shall he or she use such information to advance his or her private financial interests or those of others.

K. Future employment.

- (1) No person who has served as an officer or an employee of the Town shall, within a period of one year after the termination of such service or employment, appear on behalf of any person, firm, corporation or association in relation to any case, proceeding, or application involving Town matters or Town law before the board, agency, committee, commission or department of the Town on which he or she served or was employed.
- (2) No person who has served as an officer or an employee of the Town shall at any time after the termination of such service or employment appear before any board or agency of the Town on behalf of any person, firm, corporation or association in relation to any case, proceeding, or application with respect to that in which the former officer or employee was directly concerned, or in which he or she personally participated during the period of his or her service of employment, or which was under his or her active consideration.
- (3) The Board of Ethics is hereby authorized to grant waivers of the restrictions set forth in this Subsection K, where strict enforcement would result in undue hardship, or where the granting of a waiver would advance rather than frustrate the public interest.
- (4) No person who has served on the Town Board, the Planning Board, the Zoning Board of Appeals or the Board of Assessment Review shall, within a period of one year after the termination of such service, appear before any board, committee, commission,

department or agency of the Town on behalf of any person, firm, corporation or association in relation to any case, proceeding, or application involving Town matters or Town law.

I. Exceptions. The provisions of Subsections A, B, C, D, E, G, H, I and J of this section shall not apply to:

- (1) The purchase by the Town of real property or an interest therein, provided that the purchase and the consideration therefor are approved by order of the Supreme Court upon petition of the Town Board;
- (2) The acquisition of real property, or an interest therein, through condemnation proceedings according to law;
- (3) A contract for emergency services in the Town of Putnam Valley;
- (4) A contract in which an officer or employee has an interest if such contract was entered into prior to the time he was elected or appointed as such officer or employee, but this subsection shall in no event authorize a renewal of any such contract.

#### **§ 17-4. Contracts void.**

Any contract entered into by or with the Town in which there is an interest prohibited by this chapter shall, at the option of the Town, be null, void and wholly unenforceable, unless it is void pursuant to Article 18 of the General Municipal Law.

#### **§ 17-5. Town Board of Ethics.**

- A. Establishment. The Town Board of the Town of Putnam Valley hereby establishes a Board of Ethics, which shall be nonpartisan, independent, and comprised of five members. The Town Board shall appoint the members of such Board and shall appropriate moneys annually for its operation and other services in connection therewith. The members of such Board shall receive no salary or compensation for their services as members of such Board. No member of the Ethics Board shall hold any other Town office or be an employee of the Town. The members of the Ethics Board commencing a review or investigation of a matter pursuant to this section shall conclude such review or investigation notwithstanding the expiration of their terms or the appointment of new members.
- B. Terms of office.
  - (1) Upon adoption of this Code of Ethics, the initial members shall be designated by the Town Board to serve for terms of one, two, three, four, and five years, respectively. Thereafter, the members shall serve for terms of five years.
  - (2) In the event of one or more recusals, the Ethics Board may replace the same number of recused Board members by inviting former Ethics Board members to participate in their absence.
- C. Advisory opinion.
  - (1) The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and, upon written request, shall render advisory opinions to the officers and employees of the Town with respect to Article 18 of the General Municipal Law.
  - (2) Upon written request, the Board shall render advisory opinions to officers and employees

with respect to this code.

- (3) To the extent permitted by law, the identity of the officer or employee seeking advice, and the nature of the inquiry shall be and remain confidential.
- (4) No officer or employee shall hold two or more offices or positions of Town employment unless the Town Board has first requested and received advice from the Board of Ethics that the offices or positions are compatible.

D) Complaints.

- (1) In addition to the other powers and duties granted to the Board of Ethics, the Board shall have the authority to receive written complaints alleging violation of this Code and to initiate complaints on its own motion and to investigate such complaints.
- (2) An officer or employee under investigation by the Board of Ethics shall be afforded written notice of the investigation and the copy of the complaint on which it is based, and an opportunity to be heard. In the course of its investigations, the Board of Ethics may take testimony under oath.
- (3) The Board shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and proceedings.
- (4) At the conclusion of its investigation, the Board of Ethics shall render a written opinion stating the allegations, its findings, conclusions and recommendations. A copy of the opinion shall be furnished to the complainant, the subject officer or employee, and the Town Board.

**§ 17-6. Distribution of Code of Ethics.**

- A. The Supervisor of the Town of Putnam Valley shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of Putnam Valley. Each officer and employee elected or appointed on and after the effective date of this chapter shall be furnished such copy before entering upon the duties of his or her office or employment. The Town Records Officer shall keep on file a signed statement that the Code of Ethics was received. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with this chapter or with the enforcement of the provisions thereof.
- B. The Town Board, in consultation with the Board of Ethics, shall conduct periodic ethics training programs for all officers and employees of the Town, and for the public.

**§ 17-7. Penalties for offenses.**

The Town Board may impose any or all of the following penalties for violations of this chapter:

- A. In addition to any penalty contained in this section or any other provision of law, any violation of the provisions of this Code of Ethics shall constitute cause for warning, reprimand, 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.
- B. In addition to any other penalty contained in this section or in any other section of law, the Town Board, at the request of the Ethics Board, may assess a civil penalty up to \$1,000 for any violation of this Code of Ethics.

- C. If a person has directly or indirectly gained money, property, or other advantage as a result of a violation of any provision of this chapter, the Town Board may, upon the recommendation of the Ethics Board, and in addition to any penalty contained in this section or in any other section of law, assess a civil penalty equal to the gain or profit obtained from such violation.

**§ 17-8. Conflict with General Municipal Law.**

In the event that any provision of this chapter shall conflict with the provisions of Article 18 of the General Municipal Law of the State of New York, the provisions of this code shall prevail, except that nothing in this code shall authorize conduct otherwise prohibited by the General Municipal Law. Pursuant to authority in the New York State Constitution and Municipal Home Rule Law, this code supersedes all inconsistent provisions of Article 18 of the General Municipal Law of the State of New York, except that nothing in this chapter shall authorize conduct otherwise prohibited by Article 18 of the General Municipal Law.

**§ 17-9. Conflict with Town Code.**

In the event that any provision of this chapter shall conflict or be inconsistent with any other provisions of the Town Code, the provisions of this chapter shall prevail.