GENERAL CODE
eCode360
MultiView Technology

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

Jump to Content

CHAPTER 28. CODE OF ETHICS AND DISCLOSURE
ARTICLE I. Code of Ethics and Disclosure
§ 28-1. Purpose.
§ 28-2. Definitions.
§ 28-3. Code of Ethics as condition of employment.
§ 28-4. Establishment of Board of Ethics; powers, duties, training and education.
§ 28-5. Conflicts of interest.
§ 28-6. Political activities prohibited.
§ 28-7. Agent's notice of appearance.
§ 28-8. Use of Town property; improper use of information; disclosure of interest.
§ 28-9. Revolving door: post-employment representation before Town agencies.
§ 28-10. Financial disclosure required of officers and employees.
§ 28-11. Filing of financial disclosure statement; review.
§ 28-12. Distribution and posting.
§ 28-13. Disclosure of interest by outside entities in certain applications.
§ 28-14. Penalties for offenses.
§ 28-15. General severability.
ARTICLE II. Whistleblower Protection Act
§ 28-16. Purpose.
§ 28-17. Definitions.
§ 28-18. Retaliation prohibited.
§ 28-19. Procedure for disclosure of information.
§ 28-20. Procedure for filing complaint of alleged retaliatory personnel action.
§ 28-21. Remedy and relief.
§ 28-22. Existing rights.

Chapter 28. CODE OF ETHICS AND DISCLOSURE

Attachments:
028a Transactional Disclosure Form

[HISTORY: Adopted by the Town Board of the Town of Brookhaven 12-20-2005 by L.L. No. 34-2005, effective 12-27-2005. *Editor's Note: This local law also repealed former Ch. 28, Code of Ethics and Disclosure, adopted 10-20-1992 by L.L. No. 12-1992, effective 10-23-1992, as amended.* **Amendments noted where applicable.]**

GENERAL REFERENCES
Clerk — See Ch. 18A.
Departments and bureaus — See Ch. 20.
Discrimination — See Ch. 21A.

Article I. Code of Ethics and Disclosure

§ 28-1. Purpose.

A. The Town of Brookhaven is one of the largest and most populated towns in New York State. Brookhaven Town's land area is the largest of any Town municipal area in New York State. These characteristics require extraordinary local government services that should only be provided with the highest level of honesty, integrity and professionalism. The following Code of Ethics is formulated to meet that goal.

B. The proper administration of the government of the Town of Brookhaven requires its officers and employees, whether elected or appointed, paid or unpaid, including members of any administrative boards, commissions or other agencies, to be impartial and free from conflicts of interest, or even the appearance of conflicts, and free from partisan political influences in fulfilling their public responsibilities. The purpose of this chapter is to establish standards of conduct and guidance to the officers, employees and appointees of the Town of Brookhaven.

C. In furtherance thereof, the Town Board of the Town of Brookhaven hereby exercises the option granted local governing bodies pursuant to § 811 of the General Municipal Law by requiring all Town officials and appointees to file with the Local Board of Ethics a financial disclosure statement in such form as shall be approved by the Town Board by resolution. It is the intent of this chapter to prevent conflicts of interest or the appearance of conflicts of interest by requiring disclosure of those financial items which could reasonably be expected to lead to a conflict of interest or the appearance of a conflict of interest.

§ 28-2. Definitions.

When used in this chapter and unless the context otherwise requires, the words used herein shall have the same meanings or definitions as those in Article 18, § 800 et seq., and any amendments thereto, of the General Municipal Law which are incorporated by reference herein:

AGENCY
Any office, body, board, advisory board, authority, commission, council, department, district, division, bureau or committee of the Town, and any comparable entity funded or created by or for the Town for the purpose of conducting or financing an improvement(s) or service(s) for the promotion of the health, welfare, safety or convenience of the residents of the Town or for the benefit of real property in the Town but shall not include any fire district or library district.

APPEAR, APPEARANCE, or APPEAR BEFORE
A representational communication by whatever form, whether personally or through another person or another entity with any agency of the Town relating to a business dealing.

BUSINESS DEALING
Having or providing any contract or service or work application with the Town, and means buying, selling, renting, acquiring from or dispensing to the Town any good, service or property and is applicable to petitioning for, requesting, or obtaining any approval, grant, license, loan, permit, franchise or the like from the Town.

CANDIDATE
Any person seeking or taking affirmative acts in furtherance of obtaining a nomination, designation, or election to a public or party office in the Town of Brookhaven, excluding the party position of committeeperson.

DISCRETIONARY ACT
Any action, involving the exercise of judgment or discretion by an official or employee, either acting as an individual or as a member of board or agency, or as an advisor to any board or agency, and includes, but is not limited to, negotiations, approval, advice, recommendation, authorization or audit.

DUTIES
Includes those functions performed in the service of the Town, as distinguished herein below:
A. ADVISORY DUTIES — Include those functions performed by any volunteer public official as defined

herein under, involving the mere gathering, analysis, dissemination or retrieval of general information for the purpose of rendering advice to the Town Board or the various Town departments, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, in regard to their volunteer public service.

B. DISCRETIONARY DUTIES (also referred to as "discretionary authority") — Include those functions performed by any Town official involving greater than the mere dissemination or retrieval of general information; or those functions imposed by law, job description or general practice that involve decision making, policy making or the rendering of a judgment.

C. OFFICIAL DUTIES — Include all functions regarding the reasonably expected responsibilities, charges, obligations, trusts and liabilities of any and all elected officials, officers, employees, public officials and/or public servants of the Town and its various departments, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, in regard to their public service.

ENGAGE

Includes any recognized dictionary definition thereof and/or of the following words: participate, enter into, join, take part in, arrange, bargain and/or deal.

FAMILY MEMBER

Any family relative, including a spouse, former spouse, child, stepchild, brother, sister, parent or dependent of an officer or employee.

FINANCIAL INTEREST

An interest that exceeds 1/10 of 1% of the outstanding securities of a business concern; or if the interest is in an unincorporated business concern, exceeds 1% of the worth of such concern; or is a monetary interest in a corporation, person or firm which exceeds 5% of net worth of the officer or the employee and his or her family members; or is the interest of a partner in any partnership; or is the interest of a stockholder in a professional corporation. In computing percentages herein both the legal and the beneficial interest shall be aggregated.

LOBBYING, LOBBYING ACTIVITIES, PAID LOBBYIST

Any person paid to influence the passage or defeat of any legislation by the Town or the approval or disapproval of any legislation by the Town; the adoption or rejection by the Town of Brookhaven, its agencies, boards, departments, offices or commissions of any rule or regulation having the force and effect of law; or the outcome of any ratemaking proceeding by a Town agency or the outcome of any land application before a Town agency.

MINISTERIAL ACT

An action performed in a prescribed manner, whether by statute or by standard accepted and known practice, where there is no exercise of judgment or discretion.

OFFICIAL or EMPLOYEE

Any officer or employee of the Town, paid or unpaid, elected or appointed, on suspension, on leave for any reasons, including but not limited to workers' compensation, disability, maternity or family medical, but does not include any judge, prosecutor or employee of the unified court system, nor volunteer fire fighters, civil defense volunteers or unpaid persons performing charitable work.

OUTSIDE EMPLOYER OR BUSINESS

A. Any activity, other than employment with the Town, for which the officer or employee receives compensation for services rendered or goods sold or produced.

B. Any entity, except the Town, of which the officer or employee is a member, officer or employee.

C. Any entity in which the officer or employee has an ownership interest.

POLITICAL ACTIVITIES

Any activities related to partisan politics, including recruiting, solicitation for fundraising, invoking political reprisals, and any action that uses political influence to affect the duties and responsibilities of any officer or employee of the Town.

TOWN
The Town of Brookhaven.

TOWN OFFICIAL
Includes all of the following categories of individuals, as distinguished herein below:

A. ELECTED OFFICIAL — Includes all persons elected by the electors of the Town of Brookhaven pursuant to the laws of the State of New York.

B. EMPLOYEE and/or PUBLIC SERVANT — Includes all persons whose salary is paid in whole or in part by the Town of Brookhaven, its various departments, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, whether pursuant to civil service regulations, contractual employment agreements or any other arrangements.

§ 28-3. Code of Ethics as condition of employment.

Compliance. It shall be a condition of employment and/or service to the Town, or any subdivision thereof, that all Town officials and employees thereof be in compliance with this Code of Ethics and any and all opinions rendered by the Board of Ethics and Financial Disclosure.

§ 28-4. Establishment of Board of Ethics; powers, duties, training and education.

A. Board established; membership.

(1) A Board of Ethics is hereby established, pursuant to § 808 of Article 18, and any amendments thereto, of the General Municipal Law, incorporated by reference herein, to be composed of five members who have a good reputation and a record of honorable community service to serve without compensation and at the terms set forth below:

(a) Qualifications of members.

[1] No member of the Ethics Board shall be an officer or employee of the Town of Brookhaven.

[2] No more than two members shall be from any one political party.

[3] No Ethics Board member shall hold office in a political party, including a committeeperson, or be employed or act as a paid lobbyist or hold elective office in the Town served by the Ethics Board. An Ethics Board member may make campaign contributions but may not participate in any election campaign.

(2) Such appointment shall conform to the following:

(a) The members of the Ethics Board shall be appointed by the Town Board, and the Supervisor shall annually designate one of the appointed members to serve as chairperson.

(b) The members of the Ethics Board shall be appointed no later than January 30, 2006, and annually thereafter in accordance with the provisions of this section.

(c) The terms of all the current members of the Ethics Board shall expire upon designation of the new Board members appointed in accordance with the provisions of this section.

(d) The terms of office of appointed Ethics Board members shall be three years and shall run from January 1st to December 31st; except that of the members appointed: one shall serve until December 31, 2006, two shall serve until December 31, 2007, and two shall serve until December 31, 2008.

(e) An Ethics Board member shall serve until his or her successor has been appointed. If a vacancy occurs, it shall be filled, within 60 days, for the unexpired portion of the term in the same manner as the original appointment.

(f) An Ethics Board member may be removed from office by the Town Board for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or conviction of a misdemeanor or felony after written notice and opportunity for such member to respond.

(g) A quorum shall be three members, and action shall be by a majority of the whole number of the Board.

B. Executive Director:

(1) The Board of Ethics shall be served by a part-time Executive Director. The Supervisor shall designate and set the salary and compensation of the Executive Director from nominations made by the Ethics Board with approval by the Town Board. The Executive Director shall be responsible to the Ethics Board and shall be responsible for distributing the financial disclosure form to all the officers and employees required to file pursuant to § 28-10 herein and shall have such other powers and responsibilities as set forth in the rules and regulations as promulgated by the Ethics Board. The Executive Director may be removed by a majority vote of the Ethics Board. The Executive Director shall review the disclosure forms, annual and transactional, filed hereunder and transmit such forms or the notice regarding such forms as required herein. The Executive Director shall cause the information required to be filed with the Ethics Board to be compiled in an orderly fashion and insure a timely response to requests for information pursuant to the Freedom of Information Law. *Editor's Note: See § 85 et seq. of the Public Officers Law.*

[Amended 12-21-2010 by L.L. No. 2-2011, effective 1-24-2011]

(2) The Town Attorney or his/her designee shall serve as counsel to the Ethics Board, except he/she shall be excused when he/she or the Ethics Board determines that he/she has, or may reasonably appear to have, a conflict of interest. In such event, substitute counsel shall be provided in a timely fashion.

C. Advisory opinion:

(1) The Board of Ethics shall render advisory opinions to officers, employees or former employees of the Town of Brookhaven with respect to Article 18 of the General Municipal Law and this Code of Ethics. Such advisory opinions shall be rendered pursuant to the written request of an affected individual officer, employee or former employee of the Town of Brookhaven, the Supervisor or by resolution of a majority of the Town Board.

(2) The Board of Ethics shall make available to all officers and employees of the Town copies of this chapter and, upon request, all applicable forms adopted by the Town Board and such state statutes which it believes may be of assistance to the officers and employees in complying with applicable ethics provisions.

(3) Investigations:

(a) Investigations. Upon receipt of a sworn complaint by any person alleging a violation of this chapter or upon determining on its own initiative that a violation of this chapter may exist, the Ethics Board shall have the authority to conduct any investigation necessary to carry out the provision of this chapter. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

(b) Hearings; penalties. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law, the Ethics Board may recommend

in writing to the Town Board appropriate disciplinary action.

(c) The Ethics Board may only act with respect to officers, employees and former employees of the Town. The termination of a Town officers, employee's or former employee's term of office or employment with the Town shall not affect the jurisdiction of the Board with respect to the requirements imposed by this chapter on the former officer, or former employee.

(d) The Town Board shall receive the recommendation(s) of the Ethics Board and shall take such disciplinary action and impose such penalties as provided in this chapter. The Town Board may review the findings of fact and the record, if any, as shall be made available to it by the Ethics Board.

(e) The Board of Ethics shall refer any violation of any provision of this chapter to an appropriate prosecutorial agency.

D. Generally, opinions of the Board are required in order to comply not only with the letter of the Code of Ethics, but also with the spirit of preventing violations of an acceptable code of conduct. All opinions of the Board shall be published and available in the Town Clerk's office, with all references to names, addresses and other information that would constitute a breach of confidentiality removed therefrom. The Board shall at all times protect the confidentiality of all Town officials, officers, employees or former employees of the Town or any subdivision thereof requesting an opinion therefrom.

E. Consistent with its duties and mandate and due process of law, the Board of Ethics shall operate under such rules and regulations as it deems reasonable and necessary to orderly administer and fulfill its duties and functions. The rules and regulations shall be filed with the Town Board, and, unless rejected or modified within 60 days, shall be deemed adopted.

F. The Board of Ethics shall present an annual report of its activities to the Town Board at a public hearing.

G. The Board of Ethics shall have the powers and duties in connection with disclosure forms as set forth in this code.

H. The Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18, and any amendments thereto, of the General Municipal Law of the State of New York, which is incorporated by reference herein,

I. Training and education. The Ethics Board shall develop educational materials, an educational program on the provisions of this chapter and shall be required to provide annual training to all Town employees. The Ethics Board shall file a copy of all such materials with the Town Clerk and make information concerning this chapter and the Ethics Code available to the officers and employees of the Town, to the public, and to persons interested in doing business with the Town of Brookhaven.

§ 28-5. Conflicts of interest.

A. Code of Ethics for Town officers and employees.

(1) Equal treatment of public by Town officers and employees. Every Town officer and employee of the Town of Brookhaven shall treat each and every member of the public, whether a person, firm, corporation or other organization, with equal consideration and without special advantage. No Town officer or employee shall discriminate on the basis of race, color, creed/religion, national origin, age, disability, sex or sexual orientation.

(2) General prohibition. A Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal benefit, financial or otherwise, for any of the following persons:

(a) The Town officer or employee;

(b) His or her outside employer or business;

(c) A member of his or her household;

(d) A customer or client (current or within the past five years); or

(e) A family member.

(3) Gifts. A Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town, nor accept anything of value from any person the Town officer or employee knows or has reason to know is seeking or has received or sought a financial benefit from the Town within the previous 24 months.

(4) Recusal.

(a) A Town officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may benefit any of the persons listed in Subsection A(2) of this section.

(b) Whenever a Town officer or employee is required to recuse himself or herself under this Code of Ethics, he or she:

[1] Shall promptly inform his or her superior, if any;

[2] Shall promptly file with the Town Clerk and Ethics Board a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board; and

[3] Shall immediately refrain from participating further in the matter.

(c) Whenever a vote is required from which a Town officer or employee must recuse himself or herself, such recusal shall not be counted for the purpose of determining whether a majority or other ratio required by statute, local law, ordinance or resolution to pass a measure has been reached; provided, however, that no action may be taken by a body unless a majority of all of the members appointed or elected to such body, votes favorably. If a body is reduced below such majority by reason of a recusal required pursuant to this section, thereby causing an inability to act, the application shall be deemed denied.

(5) Representation. A Town officer or employee shall not represent any other person in any matter that person has before the Town nor represent any other person in any matter against the interests of the Town except in matters involving collective bargaining.

(6) Appearances. A Town officer or employee shall not appear before any agency of the Town, except on his or her own behalf or on behalf of his of her own constituents or on behalf of the Town.

(7) Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.

(8) Inducement of others. A Town officer or employee shall not induce or aid another officer or employee of the Town to violate any of the provisions of this Code of Ethics.

B. Exclusions from the Code of Ethics. The provisions of § 28-5 of this chapter shall not prohibit, or require recusal as a result of:

(1) An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States.

(2) A ministerial act.

(3) Gifts:

(a) Received by the Town officer or employee from his or her parent, spouse, child or sibling; or

(b) Accepted on behalf of the Town and transferred to the Town; or

(c) Refreshments and meals received at a widely attended gathering as defined by the rules and regulations of the Ethics Board; or

(d) Motivated by a pre-existing personal relationship, as defined by the rules and regulations of the Ethics Board.

(4) Gifts or benefits having a value of $100 or less that are received by a Town officer or employee listed in § 11 of the Domestic Relations Law for the solemnization of a marriage by that officer or employee at a place other than his or her normal place of business or at a time other than his or her normal hours of business.

(5) Non-monetary awards from charitable organizations.

(6) Receipt of Town services or benefits, or use of Town facilities that are generally available on the same terms and conditions to residents or a class of residents in the Town.

(7) Representation of constituents by elected officials without compensation in matters of public advocacy.

§ 28-6. Political activities prohibited.

A. No person shall engage in any political activities on any Town premises at any time. Such prohibited activities include but are not limited to the following:

(1) Sales or purchases of tickets to political events.

(2) Discussion of tickets to political events.

(3) Solicitation to join a political party or activity.

(4) Discussion of promotions or transfers or changes of assignments or compensation on the basis of any political considerations.

(5) Solicitation of funds or goods or services for political purposes.

B. No person having supervisory control or who is superior in title to any official or employee of the Town shall engage in any of the following actions with subordinates at any time on or off Town premises:

(1) Discussion of or solicitation of ticket purchases or sales.

(2) Solicitation to join a political party or political activity.

(3) Use of political considerations in discussing duties, positions, compensation, changes in titles or work assignments.

(4) Use of political considerations as the reason for promotions, assignment changes, demotions or termination.

C. No officer or employee of the Town shall solicit or discuss political contributions with Town vendors or consultants at any time, on or off Town premises.

D. No elected Town official, Bingo Inspector or any person holding an appointed office on the Town's Board of Ethics, Planning Board, Zoning Board of Appeals, Assessment Review Board or Accessory Apartment Review Board shall hold a position on any Town, county, state, or national duly recognized political party's executive committee.

[Added 3-8-2011 by L.L. No. 10-2011, effective 3-21-2011]

§ 28-7. Agent's notice of appearance.

An official of the Town having discretionary duties shall require the filing of a written notice of appearance by any agent.

A. Filing required. An official of the Town having discretionary duty shall require the filing of a written notice of appearance by any agent retained by a person, business entity, association or other client prior to any discussion or meeting with such agent.

B. Form. A sworn notice of appearance shall either be by letter or on a form prepared by the Town Attorney's office and must include the business name, individual name, address and telephone number of both the agent and client, the date the agent was retained by the client, the matter the agent is appearing on and the department the agent is appearing before and relationship of agent or client to any Town officer or employee and shall certify that any written application is truthful and complete.

C. Filing. The department with which the notice of appearance has been filed shall keep the original, and a copy shall be forwarded to and maintained by the Town Clerk, as a readily available public document.

§ 28-8. Use of Town property; improper use of information; disclosure of interest.

A. Use of Town property. No Town officer or employee of the Town of Brookhaven shall use or permit the use of Town property, including land, vehicles, equipment, computers, Internet, e-mail, telephones, materials and any other Town property, for personal convenience or profit, except when such use is available to Town citizens generally or is authorized by law or as a matter of general Town policy to all persons similarly situated.

B. Improper use of information; disclosure of interest.

(1) No officer, or employee of the Town of Brookhaven shall disclose or use for profit, for himself or others, information about the property, affairs, finances or government of the Town of Brookhaven that is not generally available to the public.

(2) Any officer or employee of the Town of Brookhaven whose duty it is to participate in the discussion of or who gives official opinions to the Town Board or any other agency of the Town of Brookhaven on any legislation before the Town Board or matter under consideration by an agency shall publicly disclose, for the official record and on a form prescribed by the Board of Ethics, the nature and extent of any direct or indirect financial or other pecuniary interest he has in that matter or legislation.

§ 28-9. Revolving door: post-employment representation before Town agencies.

A. A Town officer or employee shall not appear or practice before the Town, except on his or her own behalf, or receive compensation for any services rendered in relation to any case, proceeding, application, or transaction before the Town, for a period of one year after the termination of his or her Town service or employment; however, the bar shall be two years as to cases, proceedings, applications or transactions in which the Town officer or employee was directly concerned and personally participated during Town service or were under the Town officer's or employee's active consideration.

B. Restrictions - Town consultants. All Town consultants, including but not limited to attorneys, architects, engineers, land use or economic consultants, shall be prohibited from performing any work or services for any entity, individual, property owner or other involved governmental agency which may reasonably

relate to the subject matter of the report. This prohibition shall be for a period of two years, which shall commence upon any action taken by the Town as a result of the consultant's recommendations. All consultants shall disclose in writing any and all entities, individuals, property owners or other governmental agencies for which the consultant is currently providing or has previously provided services, which involve the subject of the report.

§ 28-10. Financial disclosure required of officers and employees.

A. The Board of Ethics shall be the repository for completed annual statements of financial disclosure and shall give the notice required by § 808(5) of the General Municipal Law to the Temporary State Commission on Local Government Ethics. The Ethics Board shall decide who is required to file a disclosure statement consistent with the purpose and intent of this code.

B. The Board of Ethics is hereby authorized pursuant to § 811(1)(d) of the General Municipal Law to promulgate rules and regulations governing the filing of annual financial disclosure and transactional disclosure forms, as such forms are adopted by the Town Board, and to enforce such filing requirements.

C. The Board of Ethics is authorized to grant written exceptions with respect to complying with the timely filing of such disclosure statements upon the showing of undue hardship and to prescribe rules and regulations relating to such exceptions with respect to extensions and additional periods of time within which to file such financial statements, including the imposition of a time limitation upon such extensions.

D. The Ethics Board shall notify the appropriate Town officer of the failure to timely receive an annual financial disclosure form complying with this code in order to invoke the remedy for failure to file provided in § 28-14G.

E. Annual financial disclosure shall be filed by all of the following:

(1) Elected officials.

(2) Appointed officials (salaried or unsalaried) to Town offices or related agencies under the aegis of the Town.

(3) Managerial and supervisory personnel for both the Town and related agencies.

(4) All code compliance and enforcement personnel of the Town or related agencies.

(5) All employees having any personnel duty assignment authority.

(6) All employees with legal or financial duties of the Town or related agencies.

(7) All information and data entry personnel.

(8) All personnel having discretionary authority with property assessments.

(9) All personnel having authority in receipt of taxes.

(10) All personnel with discretionary authority related to the issuance of licenses, permits and the receipt of fees.

F. If the Board determines that an annual disclosure statement is deficient or reveals a possible or potential violation of this chapter, the Board shall notify the person in writing of the deficiency or possible or potential violation, afford the individual a reasonable period to correct such deficiency and explain the penalties for failure to comply with this chapter.

§ 28-11. Filing of financial disclosure statement; review.

A. All officers and employees required to file a disclosure statement as outlined in § 28-10 shall file such

statement with the Ethics Board of the Town of Brookhaven on official forms as established by resolution of the Town Board on or before the 31st day of January of each year or within 30 days after their election, or appointment to office (or related agency) in the Town of Brookhaven, whichever shall occur first.

B. Candidates who file party designating petitions for nominations at a primary election shall file such disclosure statement within 14 days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election.

C. Candidates for independent nomination who have not been designated by a party to receive a nomination shall file such disclosure statement within 14 days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election.

D. Candidates who receive the nomination of a party for a special election shall file such statement within 14 days after the date of the meeting of the party committee at which they are nominated.

E. A candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by a declination, shall file such statement within 10 days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination.

§ 28-12. Distribution and posting.

A. New officers and employees. The Personnel Division of the Supervisor's Office shall issue a copy of this chapter and any controlling opinions of the Ethics Board ratified by the Town Board to all new officers and employees of the Town, or any subdivision thereof, at the time their employment information is processed and shall note their personnel file accordingly. The new officers and employees shall sign a statement that the Code of Ethics and any controlling opinions were received and read.

B. Oaths of office. The Town Clerk's Office shall not administer the oath of office to any new employee, reappointed officer or elected official until notified by the Personnel Division that said employee or officer has received said copies.

C. Current officers and employees. Said Personnel Division shall issue a copy of this chapter to all current officers and employees of the Town, or any subdivision thereof, within 30 days of its adoption, by attaching a copy to their paycheck, and shall note their personnel files accordingly. The current officers and employees shall sign a statement that a copy of the Code of Ethics was received and read.

D. Volunteer officers, officials and/or public officials. Unsalaried Town officials shall be required to file an oath of office with the Town Clerk and, upon doing so, shall be issued a copy of the Code of Ethics from the Town Clerk. It shall be the responsibility of the Town official appointing said volunteer to inform them of the requirements herein. The volunteer officers, officials and/or public officials shall sign a statement that a copy of the Code of Ethics was received and read.

E. Subsequent changes and ratified controlling opinions. Said Personnel Division shall issue a copy of any changes to this chapter or any controlling opinion of the Ethics Board ratified by the Town Board to all officers and employees of the Town, or any subdivision thereof, within 30 days of adoption or ratification by the Town Board, by attaching a copy to their paycheck, and shall note their personnel files accordingly. The Town official appointing a volunteer shall be responsible for issuing a copy of said changes to volunteers, unless said volunteers serve on a committee, board, council or task force, in which case the Supervisor's Office shall issue same to the chairman thereof, who shall be responsible for notifying the members thereof. The officers and employees shall sign a statement that a copy of subsequent changes and ratified controlling opinions to the Code of Ethics was received and read.

F. Failure by the Town to timely issue a copy of this chapter or any ratified controlling opinion of the Ethics Board to officers and employees of the Town or any subdivision thereof shall have no effect on the duty of compliance with this code, nor the enforcement of the provisions herein.

§ 28-13. Disclosure of interest by outside entities in certain applications.

A. Disclosure requirements. Every application, petition or request submitted for a tax grievance for a nonresidential parcel, variance, amendment, change of zone, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of this Code shall contain a transactional disclosure statement as set forth at the end of this chapter completed to the best extent known to such applicant on such form or amended form as shall be approved by the Town Board by resolution.

B. Each applicant shall to the best extent known to such applicant disclose the name, residence and the nature and extent of the interest that any state officer or officer or employee of the Town of Brookhaven or the County of Suffolk has in the person, partnership or association making such application, petition or request.

C. Ownership of less than 5% of the publicly owned stock of a corporation shall not constitute an interest for the purposes of this section, and the disclosure provisions of this section shall be construed to be in addition to other disclosure requests of this code.

D. For purposes of § 28-13, an officer or employee shall be deemed to have an interest in the application when he or she, or his or her spouse, or brothers, sisters, parents, children, grandchildren or the spouse of any of them (a) is the applicant or (b) is an officer, director, partner or employee of the applicant or (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant.

E. The foregoing disclosure provisions of § 28-13 shall apply to any individual who is a party officer of a political party in Suffolk County. "Party officer" shall include any person holding any position or office, whether by election, appointment or otherwise in any party as defined in the Election Law for any position defined in either the Election Law or the General Municipal Law.

F. The foregoing provisions of § 28-13 shall not be deemed nor construed to allow any officer or employee to participate in any fashion in any act prohibited or restricted by this code.

§ 28-14. Penalties for offenses.

A. Any individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly or willfully, with intent to deceive, makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure or who is determined to have knowingly and willfully violated this Code of Ethics may be assessed a civil penalty in an amount not to exceed $10,000, may be removed from office, dismissed, suspended or subject to such other disciplinary action as the Town Board deems advisable, subject to any rights the individual may have pursuant to statute, contract, law, rule or regulation. The Ethics Board shall adopt rules governing the conduct of inquiries concerning violations of this chapter, which rules shall provide for due process. The Town Board may only impose the penalties referred to in this section after conducting an adjudicatory proceeding and after its determination becomes final.

B. Civil fine. Any officer or employee who violates any provision of this chapter may be subject to a civil fine of up to $1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this article.

C. Damages. Any person, whether or not an official or employee, who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture pursuant to Subsection D of this section.

D. Civil forfeiture. Any person, whether or not an officer or employee, who intentionally or knowingly violates any provision of this chapter may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.

E. Misdemeanor. Any violation of any provision of this chapter may be punishable as a Class A misdemeanor.

F. Debarment.

(1) Any person, whether or not an officer or employee, who intentionally or knowingly violates any provision of this chapter shall be prohibited from entering into any contract with the Town for a period not to exceed three years.

(2) No person, whether or not a Town officer or employee, shall enter into a contract in violation of a bar imposed pursuant to Subsection F(1) of this section.

(3) Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public.

G. The salary of any officer or employee failing to file a financial disclosure form by the deadline established by this code shall be withheld, until compliance with the financial disclosure provisions of this code is achieved.

§ 28-15. General severability.

If any clause, sentence, paragraph, section or item of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.

Article II. Whistleblower Protection Act

[Added 9-29-2009 by L.L. No. 21-2009]

§ 28-16. Purpose.

A. It is the purpose of this article to encourage Town employees to report information that they reasonably and in good faith believe to be a violation of law, rule, regulation by another Town employee; or which evidences gross mismanagement, a gross waste of funds.

B. It is further the purpose of this article to protect employees who report such information from reprisals in the form of adverse personnel actions, and to establish the procedures in order to accomplish these goals.

§ 28-17. Definitions.

When used in this article, and unless the context specifically indicates otherwise, the following words shall have the meanings indicated:

GROSS MISMANAGEMENT
Any action or activity by a Town official or employee which is undertaken in the performance of such official's or employee's official duties, whether or not such action or activity is within such official's or employee's scope of employment, and which action or activity is an arbitrary and capricious misuse of Town property or facilities, a persistent abuse of authority, or is a willful omission to perform a required duty.

GROSS WASTE OF FUNDS
The procurement of any supplies and/or professional services by a Town official or employee, or an agent of such official or employee, the procedure for which is not governed by the General Municipal Law or the Town of Brookhaven Procurement Policy, where the cost of such supplies and/or professional services unreasonably exceeds the cost that is standard in the appropriate industry for which such supplies and/or professional services are procured.

IMPROPER GOVERNMENTAL ACTION

Any action taken by a Town official or employee, or an agent of such official or employee, which is undertaken in the performance of such official's, employee's or agent's official duties, whether or not such action is within such official's, employee's or agent's scope of employment, and which action is in violation of any federal, state or local law, rule or regulation.

PROTECTED DISCLOSURE

Any disclosure of information by a Town official or employee pursuant to the procedures set forth herein, which the official or employee reasonably and in good faith believes evidences an improper governmental action, gross mismanagement, or a gross waste of funds.

RETALIATORY PERSONNEL ACTION

Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment or evaluation of performance, or other adverse employment action taken against a Town official or employee regarding his/her terms and conditions of employment.

SUPERVISORY AUTHORITY

Managerial authority or any other authority to direct and control the work performance of any other Town official or employee.

§ 28-18. Retaliation prohibited.

No official or employee having supervisory authority over another official or employee of the Town of Brookhaven shall engage in, or threaten to engage in, retaliatory personnel action against any official or employee because he/she has made, or threatens to make, a protected disclosure pursuant to this article.

§ 28-19. Procedure for disclosure of information.

A. Any official or employee of the Town of Brookhaven who reasonably and in good faith believes that any other official or employee is engaged in, or has engaged in, improper governmental action, gross mismanagement or gross waste of funds may disclose such information to the official's or employee's appointing authority, or his/her designee, for appropriate action. Upon receipt of such information by the appointing authority or his/her designee, such disclosure shall be deemed to be a protected disclosure.

B. Notwithstanding the procedure enumerated in Subsection A above, any official or employee of the Town of Brookhaven who reasonably and in good faith believes that any other official or employee is engaged in, or has engaged in, improper governmental action, gross mismanagement or gross waste of funds, and where such official or employee reasonably believes that disclosure to his/her respective appointing authority or designee will not result in the taking of corrective action, such official or employee may disclose such information directly to the Town Attorney, or his/her designee, for further investigation and official action. Upon receipt of such information by the Town Attorney, or his/her designee, such disclosure shall be deemed to be a protected disclosure.

C. The Town Attorney is hereby designated by the Town Board of the Town of Brookhaven, pursuant to § 20-22C(12) and (14) of the Code of the Town of Brookhaven, to investigate all allegations of improper governmental action, gross mismanagement and gross waste of funds, and shall be authorized to recommend appropriate corrective action, or any other action required to be taken by law.

D. Should the Town Attorney be the subject of any alleged improper governmental action, gross mismanagement or gross waste of funds, an official or employee alleging such improper governmental action, gross mismanagement or gross waste of funds may disclose such information directly to the Town of Brookhaven Board of Ethics. Upon receipt of such information by the Town of Brookhaven Board of Ethics, such disclosure shall be deemed to be a protected disclosure.

E. For the purposes of this article, if any disclosure is made to the Town of Brookhaven Board of Ethics by any official or employee of the Town of Brookhaven alleging improper governmental action, gross mismanagement or gross waste of funds, provided that such disclosure is made reasonably and in good faith, then such a disclosure shall be deemed to be a protected disclosure.

§ 28-20. Procedure for filing complaint of alleged retaliatory personnel action.

A. Where an official or employee of the Town of Brookhaven is subject to dismissal, or other retaliatory personnel action, and the official or employee reasonably believes that such dismissal or other retaliatory personnel action would not have been taken but for the official's or employee's release of any information constituting a protected disclosure, the official or employee may file a complaint with the Town Attorney within 30 days of the alleged prohibited retaliatory personnel action or dismissal.

B. The Town Attorney or his/her designee shall immediately initiate and coordinate a thorough and impartial investigation of any complaint filed pursuant to Subsection A above, which may include, but not be limited to, the referral of such a complaint to the Town of Brookhaven's Labor Counsel for further investigation.

§ 28-21. Remedy and relief.

If it is determined that a prohibited retaliatory personnel action has occurred, appropriate action shall be taken, which may include but shall not be limited to the discipline of the employee(s) and/or official(s) who caused the retaliatory personnel action to occur, and, to the extent feasible, affording appropriate relief to the employee or official who was the subject of the retaliatory personnel action.

§ 28-22. Existing rights.

Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of any official or employee under any other law or regulation or under any collective bargaining agreement or employment contract.

Prev Top Next
t
Change Views Contents

Privacy Policy Help Terms of Service
e