

**TOWN OF MAMAKATING  
INTRODUCTORY LOCAL LAW  
CODE OF ETHICS**

BE IT ENACTED by the Town Board of the Town of Mamakating, County of Sullivan, State of New York, as follows:

Section 1. Chapter 18, titled "Code of Ethics," of the Code of the Town of Mamakating is repealed in its entirety and a new Chapter 18, titled "Code of Ethics," is adopted to read as follows:

§18-1. Purpose.

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

§18-2. Definitions.

"Board" means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning of board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.

"Code" means this code of ethics, Article 18 of the General Municipal Law, and any other statutory or case law relating to ethical conduct, interests in contracts and personal interests of municipal officers and employees.

"Interest" means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

"Relative" means mother, father, grandmother, grandfather, brother, sister, aunt, uncle, son, daughter, step-parent, step-brother, step-sister, step-child, including any such relationship by adoption, marriage, civil union, or same-sex marriage.

"Municipality" means Town of Mamakating. The word "municipal" refers to the municipality.

“Municipal officer or employee” means a paid or unpaid officer or employee of the Town of Mamakating, including, but not limited to, the members of any municipal board.

#### §18-3. Applicability.

This code of ethics applies to the officers and employees of the Town of Mamakating, and shall supersede any prior municipal code of ethics. The provisions of this code of ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the Town of Mamakating.

#### §18-4. Prohibition on use of municipal position for personal or private gain.

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

#### §18-5. Disclosure of interest in legislation and other matters.

A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, “or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.

B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

C. The disclosure shall be filed with the Town Board. In addition, the disclosure shall be filed with the person’s supervisor. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a municipal board on which that person serves shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

#### §18-6. Recusal and abstention.

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

B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function; or

(3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor may designate another person to exercise or perform the power or duty, if lawfully permissible.

§18-7. Prohibition inapplicable; disclosure, recusal and abstention not required.

A. This code's prohibition on improper use of a municipal position (section 4), disclosure requirements (section 5), and requirements relating to recusal and abstention (section 6), shall not apply with respect to the following matters:

(1) adoption of the municipality's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups;

(a) all municipal officers or employees;

(b) all residents or taxpayers of the municipality or an area of the municipality; or

(c) the general public; or

(3) any matter that does not require the exercise of discretion.

B. Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 6 of this code;

(2) which comes before a municipal officer when the officer would be prohibited from acting by section 6 of this code and the matter cannot be lawfully delegated to another person.

§18-8. Investments in conflict with official duties.

A. No municipal officer or employee may acquire the following investments:

(1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 6 of this code; or

(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

B. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:

(1) real property located within the municipality and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

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

#### §18-9. Private employment in conflict with official duties.

A. No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

(1) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;

(2) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;

(3) violates section 805-a(1)(c) or (d) of the General Municipal Law; or

(4) requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

#### §18-10. Future employment.

A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a

member of a board, while the matter is pending or within the one hundred twenty (120) days following final disposition of the matter.

B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

§18-11. Personal representations and claims permitted.

A. This Code shall not be construed as prohibiting a municipal officer or employee from:

(1) representing himself or herself, or his or her spouse or minor children before the municipality; or

(2) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§18-12. Use of municipal resources.

A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.

B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:

(1) any use of municipal resources authorized by law or municipal policy;

(2) the use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or

(3) the occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.

C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§18-13. Interests in Contracts.

A. No municipal officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.

B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by section 803 of the General Municipal Law.

§18-14. Political Solicitations.

A. No municipal officer or employee shall, directly or indirectly, attempt to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§18-15. Confidential Information.

A. No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§18-16. Gifts.

A. No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.

B. No municipal officer or employee may directly or indirectly solicit any gift.

C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:

(1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;

(2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or

(3) the gift is intended as a reward for any official action on the part of the officer or employee.

D. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

E. (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

F. This section does not prohibit any other gift, including:

(1) gifts made to the municipality;

(2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;

(3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

(4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

(6) meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals

and refreshments are made available to all participants.

#### §18-17. Board of Ethics.

A. There is hereby established a Board of Ethics of the Town of Mamakating. The Board of Ethics shall consist of five members, a majority of whom shall not be officers or employees of the municipality. All Board members must be residents of the Town of Mamakating. The members of such Board of Ethics shall be appointed by the Town Board, and receive no salary or compensation for their services as members of the Board of Ethics. When originally constituted, the first member will serve for a one-year term, the second member will serve for a two-year term, the third member will serve for a three-year term, the fourth member will serve for a four-year term, and the fifth member will serve for a five-year term. Each year, the Town Board will appoint one member to serve a five-year term to fill the vacancy created by the member whose term has expired. Terms will begin on January 1<sup>st</sup> and will expire on December 31<sup>st</sup> of the year in which the term expires. No member shall serve more than two full five-year consecutive terms. Notwithstanding a member's term, a member may be removed from the Board of Ethics by the Town Board for cause.

B. The Board of Ethics shall render advisory opinions to the officers and employees of the Town of Mamakating with respect to Article 18 of the General Municipal Law and this code. Such advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board of Ethics may prescribe. The Board of Ethics shall have the advice of legal counsel employed by the Board, or if none, the Town Board's legal counsel. In addition, the Board of Ethics shall have the following powers, duties and responsibilities:

(1) Prescribe and promulgate rules and regulations governing its own organization and procedures in a manner consistent with the Code.

(2) Review and maintain lists of officers, employees and consultants, and annual financial disclosure statements.

(3) Index advisory opinions and other determinations of the Board and, if required by the Code, maintain the confidentiality of advisory opinions and other determinations.

(4) If requested by the Town Board, provide training and education to officers and employees with respect to the provisions of the Code.

(5) If requested by the Town Board, recommend changes to the Code deemed appropriate by the Board of Ethics.

(6) Upon written request of any board or agency of the Town, render a written advisory opinion with respect to the general interpretation or application of any provision of the Code.

(7) Prepare an annual report to the Town Board summarizing the activities of the Board



of Ethics.

C. **Annual Meeting.** The Board of Ethics shall have an annual organizational meeting within forty-five (45) days after January 1<sup>st</sup>, set by the chairperson from the previous year, at which time Board members will elect a chairperson. Such meeting shall serve as an orientation for any new members. The initial meeting of the Board of Ethics shall occur within ninety (90) days after the effective date of this Code of Ethics local law. At the annual meeting, the Board shall review its activities of the previous year, discuss and address modifications to procedure or the law, and any other business that may come before it.

D. **Regular Meetings.** The Board of Ethics may hold additional meetings throughout the year as shall be called by the chairperson or any two (2) members, provided, however, that a meeting of the Board of Ethics shall be held within five (5) days after the filing of a complaint alleging a violation of this Code, at which meeting such complaint shall be considered by the Board in the manner set forth in Section 18 hereof.

E. In the event a vacancy occurs, it shall be filled for the unexpired term in the same manner as the original appointment.

F. A member of the Board of Ethics may be removed for cause by motion of any member of the Town Board. Removal shall require approval by at least four (4) affirmative votes cast by members of the Town Board. Grounds for removal include: substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this Code, or conviction of a crime.

G. Meetings and proceedings of the Board of Ethics concerning an alleged violation of this Code shall not be open to the public, except upon the request of the accused officer or employee or as required by law.

H. The Board of Ethics may act only with respect to municipal officers and employees, as defined herein.

I. The following records of the Board of Ethics shall be available for public inspection:

(1) Documents required to be disclosed by New York State Public Officers Law. However, at no time shall a document produced or made available as part of a confidential investigation be released to the public or made available for public inspection.

(2) Documents mandated to be disclosed by court order.

§18-18. Investigation and determination of advisory opinions and alleged violations.

A. **Advisory opinions.**

(1) Upon the written request of an officer or employee, the Board of Ethics shall render an advisory opinion to such officer or employee with respect to any matter addressed by the Code as

such matter may apply to the subject officer or employee.

(2) An advisory opinion rendered by the Board of Ethics shall be in writing, shall set forth supporting reasons and shall be delivered only to the subject officer or employee. Such opinion shall remain confidential, except as provided in subsection (3) below. However, the subject officer or employee may disclose the advisory opinion and any records provided to him or her related to the advisory opinion.

(3) An advisory opinion may be made public as part of a disciplinary proceeding or as part of a proceeding to penalize the subject officer or employee for a violation of the Code.

#### B. Complaints.

(1) Upon receipt of a sworn complaint of a person alleging a violation of this Code, or upon determining on its own initiative that a violation of this Code may exist, the Board of Ethics shall have the power and duty to undertake an investigation to determine whether a violation has occurred.

(2) A proceeding may be commenced by the filing of a sworn complaint, or by the Board of Ethics' own written determination to investigate. A sworn complaint must be signed by the complainant and state that the complainant swears, under penalty of perjury, that the complainant knows or reasonably believes that the allegations made therein are true.

(a) In the event a proceeding is commenced by sworn complaint, within five (5) business days, the Board shall review the allegations to determine whether or not a violation of the Code has been alleged. The Board shall render its determination, by majority vote, within three (3) business days thereafter. In the event the Board determines that the complaint does not allege a violation of the Code, the complaint shall be dismissed and simple notice of the complaint and of its dismissal, without further detail, shall be mailed to the complainant and the subject of the complaint. The complaint, the determination and any related records shall be sealed and not available to any person not a member of the Board of Ethics. However, the subject of the complaint may disclose any records provided to him or her.

(b) In the event a member of the Board of Ethics raises the possibility of a violation of this Code, the Board shall first determine, by majority vote, whether the alleged conduct, if undertaken, would constitute a violation of the Code. In the event the Board determines that the conduct would not constitute a violation of the Code, it shall render a written determination. The allegation, determination and any related records shall be sealed and not available to any person not a member of the Board of Ethics. However, the subject of the complaint may disclose any records provided to him or her.

(3) In the event the Board determines that an allegation, if true, would constitute a violation of the Code, The Board shall, within five (5) business days, mail written notification to the accused individual. The Board's notification shall describe the alleged violation and provide

a fifteen (15) day period in which the accused individual may submit a sworn, written response setting forth information and/or documentation relating to the alleged violation. The Board's notification shall also inform the accused individual of its rules regarding the conduct of adjudicatory proceedings, appeals, and the due process procedural mechanisms available to such individual. In the event the Board of Ethics determines at any stage of the proceeding that there is no violation or that any potential conflict of interest or violation has been rectified, it shall, within five (5) business days, provide written notice to the accused individual and the complainant, if any. The complaint, the determination and any related records shall be sealed and not available to any person not a member of the Board of Ethics. However, the subject of the complaint may disclose any records provided to him or her.

(a) In the event the Board of Ethics determines there is reasonable cause to believe a violation has occurred, the Board shall, within twenty (20) days, provide written notice of reasonable cause: (a) to the accused individual; (b) to the complainant, if any; and (c) in the case of an elected official, to the Town Board. Such determination of reasonable cause shall be confidential and shall not be made public or disclosed unless required by law or for use in a disciplinary proceeding or a proceeding under this Code involving the subject individual, complainant, or another officer or employee of the Town.

(b) If reasonable cause is established, the Board of Ethics shall schedule a due process hearing, to be held within sixty (60) days, at which the accused individual is entitled to legal and other representation of his or her own choosing and at his or her own expense. Testimony shall be taken under oath and the proceeding shall be recorded. The Board shall issue a decision, containing specific findings, within thirty (30) days of the completion of the hearing. A copy of the decision shall be served, by certified mail, on the accused individual or his or her legal representative, the complainant, and the Town Board. This decision of the Board of Ethics shall not be deemed confidential.

D. All time frames in this section are direction, not mandatory.

E. In exercising its authority to investigate and/or conduct a hearing concerning an alleged violation of this Code or concerning an advisory opinion, the Board of Ethics shall have the power to administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which the Board may deem relevant and material.

F. False Complaints. Any person who knowingly or recklessly files a false complaint may be subject to disciplinary action, civil liability, or criminal prosecution.

#### §18-19. Posting and distribution.

A. The Town Supervisor must cause a copy of this Code, and a copy of any amendment to this Code, to be posted publicly and conspicuously in each building under the Town's control. The Code must be posted within ten days following the date on which the Code takes effect. An amendment to the Code must be posted within ten days following the date on which the amendment takes effect.

B. The Town Supervisor must promptly cause a copy of this Code, including any amendments to the Code, to be distributed to every person who is or becomes an officer and employee of the Town of Mamakating.

C. Every municipal officer or employee who receives a copy of this Code or an amendment to the Code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk, who must maintain such acknowledgments as a public record.

D. The failure to post this Code or an amendment to the Code does not affect either the applicability or enforceability of the Code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics or an amendment to the Code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the Code or amendment to the Code.

#### §18-20. Annual Financial Disclosure.

A. All municipal officers and employees shall file an annual financial disclosure statement with the Board of Ethics on or before January 10 of each year with respect to the preceding calendar year. The Town Board, by resolution, may modify the list of employees required to submit a financial disclosure statement. Any such modification shall be by reference to employment title or position. In addition, consultants providing services to the Town by contract, including but not limited to attorneys, engineers and land use planners, and any other consultant as determined by resolution of the Town Board, shall file an annual financial disclosure statement with the Board of Ethics on or before January 10 of each year with respect to the preceding calendar year.

B. The Board of Ethics shall review the financial disclosure statements and shall notify an officer or employee if the Board believes that the statement is incomplete or inaccurate. Upon such notification, the officer or employee shall contact the chairperson of the Board to resolve the matter.

C. An officer, employee or consultant required to submit a financial disclosure statement must submit an amended statement within ten (10) days after any relevant change in circumstances.

D. An officer, employee or consultant who is required to submit a financial disclosure statement or amended financial disclosure statement, but who fails to do so, shall be subject to the penalties set forth in §18-21 of this local law.

E. The annual financial disclosure statement form shall be on file with the Board of Ethics and in the Town Clerk's office, and a copy of the form shall be distributed to each officer or employee at the same time that a copy of the Code of Ethics is distributed.

F. The annual financial disclosure statement form may be amended from time to time by resolution of the Town Board.

§18-21. Enforcement; penalties.

In addition to any penalty contained in any other provision of law, any officer or employee who violates this Code may be censured, fined, penalized, suspended or removed from office or employment in the manner provided by law.

Section 2. This local law is intended to and shall supersede any inconsistent provisions of §§806 and 808 of the state General Municipal Law.

Section 3. Effective date. This local law shall immediately take effect upon filing with the Secretary of State.

**TOWN OF MAMAKATING  
NOTICE OF HEARING  
INTRODUCTORY LOCAL LAW  
CODE OF ETHICS**

PUBLIC NOTICE is hereby given that there has been introduced before the Town Board of the Town of Mamakating, New York, on February 18, 2014, a local law entitled "Code of Ethics," which local law would repeal the Town's current Code of Ethics and establish a new Code of Ethics. The Code of Ethics would address such matters as prohibition on use of municipal position for private gain, disclosure of interest in legislation and other matters, recusal and abstention from participation in official action, private employment, use of municipal resources, interests in contracts, political solicitations, confidential information, gifts, and penalties for violation of the Code. The local law would establish a Board of Ethics and vest that Board with authority to issue advisory opinions to officers and employees, and to investigate and make determinations on alleged violations of the Ethics Code. The local law would require officers and employees to file an annual financial disclosure statement with the Board of Ethics. A complete copy of the Introductory Local Law is available for inspection at the Clerk's Office.

NOW, THEREFORE, pursuant to Section 20 of the Municipal Home Rule Law, the Town Board of the Town of Mamakating, New York, will hold a public hearing on the aforesaid Local Law at the Town Hall, 2948 Route 209, Wurtsboro, New York, on March 4, 2014, at 7:00 P.M., at which time all persons interested therein shall be heard.

The Town of Mamakating will make every effort to assure that the hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

Dated: \_\_\_\_\_, 2014

BY ORDER OF THE TOWN BOARD OF THE  
TOWN OF MAMAKATING

JEAN M. DOUGHERTY, TOWN CLERK