

Chapter 17

CODE OF ETHICS

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[HISTORY: Adopted by the Town Board of the Town of Patterson: Art. 1, 12-22-70 as L.L. No. 1-1970; Art. 11, 12-22-70 as L.L. No. 2-1970. (readopted 4-13-2005 by L.L. No. 9-2005); Amended in it entirety 9-26-12 by L.L. No. 6 of 2012. Amendments noted where applicable.]

§ 17-1. Purpose; Declaration of policy.

The proper operation of the Town government requires that its officers and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; that public officers and employees observe in their official acts the highest standards of ethics and discharge faithfully the duties of their public office regardless of personal consideration; and that the public have confidence in the integrity of its government and the officers and employees thereof.

It is the policy of the Town of Patterson 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 integrity of public administration for the Town and ensuring that government decisions are made impartially and free of conflict of interests, thereby increasing confidence in public officials. It is also the purpose of this chapter to protect officials and employees from unwarranted assaults on their integrity by separating real conflict from the inconsequential, recognizing that for local government to attract and hold competent administrators, public service must not require a complete divesting of all proprietary interests. In recognition of these goals, there is hereby established a Code of Ethics for all officers and for all employees of the Town of Patterson. In the event of any conflict between the provisions of this code and provisions of Article 18 of the General Municipal Law, the latter shall control.

§ 17-2. Definitions.

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

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

CONFIDENTIAL INFORMATION - Any information, proprietary or otherwise, which by law, rule or regulation, or by agreement, is not available to the public.

CONFLICT OF INTEREST - When a Town official or employee uses, or receives an application, petition, request or invitation to act in, his official office or position for the purpose of obtaining a pecuniary and/or other benefit for himself, or any other person to the detriment, or potential detriment, of the interests of the Town.

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

INTEREST -

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

- (1) His spouse, domestic partner or children.
- (2) Any person with whom he has a substantial debtor-creditor or other financial relationship.
- (3) Any person by whom he is employed or of which he is an officer, director, stockholder or member.
- (4) Any person, other than an individual, of which the stock or other legal or beneficial ownership is owned by him; provided, however;

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

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

PERSON - Any individual, firm, sole proprietorship, corporation, partnership, limited liability company, limited liability partnership, association, venture, individual appointed to and acting in a representative or fiduciary capacity, estate, trust or other entity.

TOWN - The Town of Patterson.

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

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

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

§ 17-3. Standards of conduct.

A. No Town Officer or Employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in conflict with, or might reasonably tend to conflict with, the proper discharge of his duties in the public interest. Any Town Officer or Employee who has a direct or indirect financial or other private interest in any matter before any Town Body shall publicly disclose in

writing on the official record of such Town Body the nature and extent of such interest prior to participating in the discussion or before making a recommendation or giving an opinion to such Town Body on such matter.

B. No Town Officer or Employee shall represent private interests before any Town Body, nor represent private interests in any action or proceeding against the interests of the Town or in any litigation to which the Town is a party. The preceding sentence shall not preclude any such Town Officers or Employees from appearing in the performance of public or civic obligations or on their own behalf with respect to matters of a personal nature. All persons appearing parties before any Town Body shall make a disclosure as provided under § 809 of Article 18 of the General Municipal Law. Every application, petition or request submitted to a Town Body for any approval, license, variance or permit pursuant to any provision of the Patterson Town Code or as otherwise authorized by law in which a Town Officer or Employee has an interest as defined in this chapter shall state the name, residence and the nature and extent of the interest of any Town Officer or Employee, in connection with such application, petition or request.

C. No Town Officer or Employee shall, directly or indirectly, solicit, accept or receive any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, from any person, firm or corporation which is interested directly or indirectly in any manner whatsoever in business dealings with the Town or under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part. Nothing contained herein shall be deemed to prohibit any Town Officer or Employee from borrowing money from any bank or banks designated as depositories by the Town Board. The \$75 limit applies to an aggregate total of gifts made over a period of 12 months.

D. No Town Officer or Employee shall:

(1) Accept employment or engage in any business or professional activity which will require him to disclose confidential information gathered in connection with the performance of his duties in his capacity as a Town Officer or Employee.

(2) Disclose any confidential information or use confidential information gathered in connection with the performance of his duties in his capacity as a Town Officer or Employee to further his personal interests or the personal interests of others.

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

F. No Town Officer or Employee shall take official action upon any application, petition, transaction, contract or questions in which he or any member of his immediate family has an interest, and shall recuse himself from any discussion, vote or decision on any such matter. This provision shall not preclude such Town Officer or Employee from participation in any public hearing or

discussion on such a matter provided that (i) he removes himself from the dais at which the Town Officers or Employees sit in consideration of such matter; and (ii) states clearly for the record that he is commenting on such matter in his individual capacity only.

G. No Town Officer or Employee, whether paid or unpaid, shall engage in or accept private employment, render services for private interests, or enter into contracts when such employment, service, or contract is in conflict with the proper discharge of his official duties.

H. No Town Officer or Employee shall accept employment by any person with whom or which he, or his department, office or agency is engaged with on behalf of the Town in the transaction of business which is or may be affected by his official action. The provisions herein shall be limited to a period of one (1) year for any Town Officer or Employee after termination of service or employment. No Town Officer or Employee shall, after the termination of service or employment with the Town, appear before any Town Body in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

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

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

K. No Town Officer or Employee shall direct or cause any Town Officer or Employee to do or perform any service or work outside of the scope of his official duties or employment, or accept any such service or work, nor shall any Town Officer or Employee offer to or perform any such service or work for any person outside the scope of his official duties or employment.

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

M. No Town Officer or Employee shall directly solicit, accept or receive any contribution to or for any political party or any candidate for public office including himself from any other Town Officer or Employee or from any person which is interested, directly or indirectly, in any manner whatsoever, in business dealings with the Town.

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

§ 17-4. Eligibility for appointment to boards.

A. Any person who holds an office or leadership position (defined as Chairman, President, Vice Chairman, Vice President, Treasurer, Comptroller, Secretary or any other title or position of authority whose duties include those commonly recognized as the duties of those official titles or positions) in a political party, as defined in the Election Law of the State of New York, § 1-104, Subdivision 3, specifically excluding official positions and titles of authority in political party structures on the state or national level, shall not be eligible for appointment to the Planning Board, the Zoning Board of Appeals, the Board of Assessment Review, the Environmental Conservation Commission or the Board of Ethics of the Town of Patterson.

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

§ 17-5. Establishment of Board of Ethics. [Amended on 7/10/13 by Local Law No.4 of 2013]

A. The Town Board shall establish a Board of Ethics, pursuant to § 808 of Article 18 of the General Municipal Law, to be composed of three (3) members, none of whom may be Town Officers or Employees. The members of the Board of Ethics shall be appointed by the Town Board to serve at the Town Board's pleasure and shall receive no salary or compensation for their services as members of such Board. Should the Town Board not establish a Board of Ethics, the Town Board may exercise and discharge all powers and duties of the Board of Ethics until such time as a Board of Ethics is established under this section, and the term "Board of Ethics" as used herein shall be read as the "Town Board" until such time as a Board of Ethics is duly established and constituted.

B. One alternate member of the Ethics Board shall be appointed by resolution of the Patterson Town Board, for a term of one (1) year. The alternate member shall substitute for a member of the Ethics Board when one of its members is unable to participate in an application or matter before the Board.

(1) The alternate member shall possess all the powers and responsibilities of such member of the Ethics Board. Such designation shall be entered into the minutes of the initial Ethics Board meeting at which the substitution is made.

(2) All provisions of this section, and state law relating to an Ethics Board member's eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

(3) When appointed by the Town Board, the alternate member may sit as a non-voting member through all proceedings of the Ethics Board.

§ 17-6. Powers and duties of Board.

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

B. The Board of Ethics shall render advisory opinions to Town Officers and Employees with respect to this code pursuant to a written request by a Town Officer or Employee. In no event shall the identity of the Town Officer or Employee requesting such an opinion be disclosed.

C. An advisory opinion regarding this Code of Ethics shall be provided to the person requesting same. Opinions shall be forwarded by the Board of Ethics to the Town Supervisor and Town Councilpersons following the rendering of such opinion.

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

E. The Board of Ethics shall have the authority to take testimony under oath under possible penalties of perjury.

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

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

(2) The written complaint shall be filed with the Board of Ethics. Upon receipt of said complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the Town Officer or Employee who is the subject of the complaint; the Town Counsel and the Town Clerk. In the event that a Board of Ethics has been created and duly constituted, the complaint shall also be forwarded to the Town Board.

(3) The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine in writing whether there is probable cause for the complaint. In the event that the

Board of Ethics finds no probable cause to support the allegations in the complaint, the complaint shall be dismissed by the Board of Ethics sua sponte. The Board of Ethics shall then notify the complainant, the Town Officer or Employee who is the subject of the complaint and the Town Board of the disposition of the complaint.

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

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

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

(7) The Town Officer or Employee who is the subject of the complaint shall have the right to notice of and to be present at all deliberations of the Board of Ethics and be represented by counsel at any required appearance before the Board of Ethics.

(8) A copy of the transcript of the testimony of the Town Officer or Employee who is the subject of the complaint shall be provided to the Town Officer or Employee at his cost and expense.

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

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

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

(b) The members of the Board of Ethics may conduct private deliberations regarding the complaint; and

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

(11) At the conclusion of its investigation and hearing on said complaint, the Board of Ethics shall then furnish the complainant, the Town Officer or Employee who is subject of the complaint and the Town Board with notice of the disposition of the complaint and its recommendation for action made to the Town Board. The Town Board shall determine whether to take, and the nature of, any official action on such recommendation within thirty (30) days of receipt and shall, immediately following the taking of such action, make it, including the recommendation of the Board of Ethics, public.

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

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

I. Except as otherwise provided herein, to the extent allowed by law, the Town Board of Ethics shall be exempt from the Freedom of Information Law and from the Open Meetings Law.

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

K. Except to the extent such records must be disclosed under the Freedom of Information Law and except as provided in § 17-6F(11), the complaint, records and other proceedings related thereto shall remain confidential.

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

§ 17-7. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any violation of the provisions of this Code of Ethics shall constitute cause for suspension or removal from Town 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.

§ 17-8. Distribution of code.

The Town Supervisor shall cause a copy of Article 18 of the General Municipal Law and this Code of Ethics to be distributed to every Town Officer and Employee within twenty (20) days after the effective date of this Chapter. Each Town Officer and Employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. Every Town Officer or Employee shall sign a written receipt indicating receipt of said documents. Said original receipts shall be filed in the Town Clerk's office and a photocopy shall be filed in the Town Officer's or Employee's personnel folder and with the Board of Ethics.

§ 17-9. Word Usage.

The masculine number as used herein is for convenience only and shall be read as the feminine or neuter gender whenever the context hereof requires and as necessary in order to give full effect to the terms and provisions hereof.