

## Chapter 20

### ETHICS, CODE OF

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### GENERAL REFERENCES

Defense and indemnification—See Ch. 14.      Personnel—See Ch. 62.  
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#### § 20-~~1~~ Legislative intent

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Washingtonville recognizes that certain rules of ethical conduct for public officers and employees must be observed in order to maintain a high degree of professionalism and conduct in the Village. The proper operation of the Village government requires that its officers and employees be independent, impartial, objective, unbiased and responsible to the people of the Village of Washingtonville: that public office not be used for personal gain; that public officers and employees maintain the highest standard of integrity and discharge faithfully the duties of their office, regardless of personal consideration; and that the public have confidence in the officers and employees thereof It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Washingtonville. These rules shall serve as a guide for official conduct of the officers and employees of the Village and shall not conflict with, but shall be in addition to, any prohibition or provision of Article 18 of the General Municipal Law or any other general or special law relating to the ethical conduct interests in contracts and personal interests of municipal officers and employees.

#### § 20-2. Definitions.

All words and phrases used herein shall have their ordinary meanings unless the context requires otherwise or unless set forth below.

**CONTRACT** — Any claim, account or demand against or agreement with a municipality; expressed or implied, and shall include the designation of a depository of public funds and a designation of a newspaper, including, but not limited to, an official newspaper, for the publication of any notice, resolution, local law or other proceeding where such publication is required or authorized by law.

FAMILY — The officer or employee himself, his/her spouse or their brothers, sisters, parents, children, grandchildren or the spouse of any of the foregoing.

INTEREST — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the Village or any business or professional transaction with the Village. For the purpose of this chapter, an officer or employee shall be deemed to have a direct interest in a contract or the business or professional affairs of:

- A. His or her spouse, minor children and dependents;
- B. A business concern, firm, partnership or association of which such officer or employee is member, partner, owner, director or employee;
- C. A corporation of which such officer or employee is an officer, director or employee, and
- D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — The Mayor, Trustees and any officer or employee of the Village, whether paid or not, including members of any administrative advisory board, commission or other agency of the Village. For the purpose of this chapter, no person shall be deemed a "municipal officer or employee" solely by reason of being a volunteer fireman, a civil defense volunteer or auxiliary police officer, except a fire chief or assistant fire chief.

VILLAGE — The Village of Washingtonville or any of its boards, commissions or agencies, whether operated solely by the Village or jointly with one or more other municipalities.

**§ 20-3. Standards of conduct.**

A. Gifts. No officer or employee of the Village shall directly or indirectly solicit any gift or accept or receive any gift having a value of more than \$75, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, thing or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence the officer or employee or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

B. Disclosure of confidential information. No officer or employee of the Village shall disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interests or the personal interests of others.

C. Rendering of services.

(1) No municipal officer or employee of ~~the~~the Village shall receive compensation or

enter into any agreement, expressed or implied, to receive compensation with respect to any matter which is, was or will be before him or her for determination in his or her official capacity as a municipal officer or employee of the Village. This provision shall not apply to compensation received from the Village for services rendered to the same.

- (2) No municipal officer or employee shall appear as attorney or counsel against the interest of the Village in any matter in which the Village is a party or complainant.

D. Use of position to achieve preferential treatment. No officer or employee of the Village shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others or grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

E. ~~Disclosures of interest in legislation or other matters invoking potential conflict of interest.~~

- (1) Any member of the Board of Trustees, Planning Board or Zoning Board of Appeals of the Village of Washingtonville who has a direct or indirect interest in any matter before the Board of which he or she is a member or any officer or employee who has a direct or indirect interest in any matter before the Board of Trustees and who participates in the discussion before or who makes a recommendation or gives an opinion to said Board of Trustees shall publicly disclose on the official record of the relevant board or boards the nature and extent of such interest.

(2) All municipal officers and employees; Village elected officials; Village Engineers and engineers for the Village; Village Attorneys and attorneys for the Village; Village Clerks; Village Treasurers; Village Managers; Fire Chiefs; Police Chief and Lieutenants; Village consulting engineers; Village consulting attorneys; and Members of Village Zoning, Ethics, Architectural Review, and Planning Boards shall

~~The following individual and/or individuals holding the following positions shall~~ disclose, in writing, to the Board of Ethics:

(i) all gifts received by the individual or related parties as further described in the Disclosure Statement form set forth as Appendix A hereto;

(ii) all loans received by the individual or related parties as further described in the Disclosure Statement form set forth as Appendix A hereto;

(iii) all relatives of the individual employed by or doing business with the Village of Washingtonville as further described in the Disclosure Statement form set forth as Appendix A hereto;

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(iv) any financial interest that the individual or related parties has or had in any contract made or executed by the Village of Washingtonville as further described in the Disclosure Statement form set forth as Appendix A hereto;

(v) any volunteer office or position that the individual holds with any not-for-profit organization in a policy making, administrative capacity as further described in the Disclosure Statement form set forth as Appendix A hereto;

(vi) all land holdings in the Village of Washingtonville, held by the individual or related parties as further described in the Disclosure Statement form set forth as Appendix A hereto;

(vii) such other as may be set forth in the Disclosure Statement form set forth as Appendix A hereto;

In addition to the foregoing, all Village elected officials; Village Engineers; Village Attorneys; Village Clerks; Village Treasurers; Village Managers; Fire Chiefs; Police Chief and Lieutenants and Members of Village Zoning, Ethics, Architectural Review, and Planning Boards shall disclose, in writing, to the Board of Ethics;

(i) the names of any outside employer or business from which the individual receives compensation as further described in the Disclosure Statement form set forth as Appendix A hereto;

(ii) the names of the individual's or the individual's firm's clients or customers who had matters before the Village of Washingtonville, active clients within the preceding two (2) years as further described in the Disclosure Statement form set forth as Appendix A hereto;

(iii) any assurances or promises of future employment and/or contracts the individual received d from any person or enterprise engaged in business with the Village of Washingtonville as further described in the Disclosure Statement form set forth as Appendix A hereto;

(iv) such other as may be set forth in the Disclosure Statement form set forth as Appendix A hereto;

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(3) Said disclosure shall be made using the Disclosure Statement form set forth as Appendix A hereto, which shall be completed and submitted to the Board of Ethics within ten days of commencing employment with the Village, election to office within the Village, appointment to any Board within the Village or appointment to any consulting position to the Village, as applicable. In the event that a change occurs with respect to any of the information provided

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on the aforesaid disclosure statement, the individual required to file such a

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statement shall file an amended statement reflecting any such change in circumstances. Such amended statement shall be filed within the earlier of ~~10~~ten days of the individual's knowledge of such change in circumstance or within ~~10~~ten days of a request for an amended statement by the Board of Ethics.

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F. Investments, private employment or other interests. Any officer or employee who believes a personal interest may possibly conflict with his or her official duties may apply to the Board of Ethics for a determination thereon.

G. Future employment. No officer or employee, after termination of service or employment with the Village, shall appear before any board or agency of the Village in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration.

H. Antinepotism.

(1) Applicability. The provisions of this subsection shall apply to all appointments, including, but not limited to, initial appointments, promotions and transfers, made on or after the effective date of this subsection, except such provisions shall not apply i) to appointments to positions that are subject to competitive examination pursuant to the State Civil Service Law and/or the Orange County Rules for the Administration of Civil Service Law; or ii) to employment and supervisory arrangements which existed and were in effect in accordance with applicable Village policy prior to the effective date of this subsection. However, any changes in the employment or position of an individual or in immediate family relationship, as defined herein, shall be governed by the provisions of this Subsection H.

(2) Definitions- As used in this subsection, the following terms shall have the meanings as set forth:

IMMEDIATE FAMILY — Spouse, grandfathers, grandmothers, grandsons, granddaughters, fathers, mothers, stepfathers, stepmothers, sons, daughters, stepsons, stepdaughters, brothers, sisters, uncles, aunts, nieces, nephews, first cousins, fathers-in-law, mothers-in-law, brothers-in-law; sisters-in-law; daughters-in-law or sons-in-law; or the spouse of any member of the immediate family; or a person with whom an officer or employee shares a residence within the context of a committed relationship.

~~OFFICER or EMPLOYEE — As defined in § 20-2.~~

(3) Prohibited employment.

(a) The appointment or employment of any individual to a position not being filled pursuant to a Civil Service Law competitive examination shall be prohibited if that individual would supervise, or would be supervised by, a member of that individual's immediate family.

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(b) An elected or appointed officer shall be prohibited from appointing, directly supervising or voting for the appointment of a member of his or her immediate family in or to any position or employment with the Village of Washingtonville.

- (4) Exception. The Village Board may, by resolution, authorize an exception to the prohibitions set forth in this subsection when it is determined to be otherwise in accordance with applicable law and in the best interest of the Village to grant an exception.
- (5) Prohibited appointment deemed null and void. Any appointment or employment of an individual made contrary to the prohibitions set forth in this subsection is and shall be null and void. Such individual shall not be considered an officer or employee of the Village for any purpose.

#### **§ 20-4. Discrimination.**

No officer or employee of the Village and no organization or service chartered by or directly or indirectly sponsored or supported by the Village shall:

A. Discriminate or cause segregation, directly or indirectly, based upon gender, creed, race or national origin, or allow said factors to affect the recruitment, selection, placement, assignment, compensation or promotion of any officer, employee or member of said organization or service.

B. Permit, directly or indirectly, the use of any Village property, equipment or service by any person or persons, organizations, corporations or any other group which directly or indirectly discriminates as set forth in Subsection A above.

C. Allow the Village to knowingly possess any financial or business interest or dealings with any organization which discriminates as set forth in Subsection A above.

#### **§ 20-5. Distribution of Code of Ethics.**

The Village Clerk shall cause a copy of Article 18 of the General Municipal Law and of this Code of Ethics to be distributed to every officer and employee of the Village. Failure ~~to~~ distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code nor the enforcement of provisions thereof.

#### **§ 20-6. Board of Ethics**

A. Establishment of Board of Ethics.

- (1) The Board of Ethics, previously- established, shall consist of five members. The Board of Trustees shall post a notice at Village Hall for a period of one month and

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publish a notice in the official newspaper, which notice shall state that all interested persons should submit to the Village their names and qualifications for membership on the Board of Ethics. The Board of Trustees or a committee thereof shall interview candidates to serve on the Board of Ethics. Members of the Board of Ethics shall be appointed by the Mayor subject to approval of the Board of Trustees.

- (2) All members of the Board of Ethics shall reside within the Village. A majority of the members shall not otherwise be officers or employees of the Village. Of the initial members, two shall be appointed for three years, two shall be appointed for two years and one shall be appointed for one year. All subsequent appointees shall be appointed to three-year terms.

B. Operation of Board of Ethics.

- (1) Appropriate funds shall be allocated by the Board of Trustees for the operation and maintenance of the Board of Ethics.
- (2) Matters before the Board of Ethics shall be confidential and, therefore all meetings of the Board to discuss or hear a matter concerning an officer or employee shall be closed to the public. Opinions and requests for opinions shall be confidential records, unless the individual who is the subject of the investigation or the individual who seeks an advisory opinion consent to its public release. Said records shall be indexed and maintained on file in an appropriate manner by the Board of Ethics.
- (3) The Village Attorney shall provide such legal and advisory services to the Board of Ethics as it may require for the performance of its duties.

C. Compensation. Members of the Board of Ethics shall not receive compensation for the performance of their official duties but shall be reimbursed for reasonable and necessary expenses.

D. Removal of Board member. All members of the Ethics Board shall serve at the pleasure of the Board of Trustees. A member of the Board of Ethics may be removed, after written notice and opportunity<sup>4</sup> for reply, by a majority vote of the Board of Trustees.

E. Quorum, voting and meetings. At its first meeting each year, the Board of Ethics shall elect a Chairman from among its membership. Three members of the Board shall constitute a quorum, and a vote of at least three members shall be required for the Board to take any action. The Board shall hold at least one meeting per year. The Chairman or any three members of the Board may call a meeting of the Board.

F. Powers and duties. The Board of Ethics shall have the following powers and duties:

- (1) Cause to be filed with the State Ethics Commission a copy of the disclosure form to be filed pursuant to this code.

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- (2) Review the disclosure forms to be filed pursuant to this chapter.
- (3) Issue an advisory opinion to a municipal officer or employee upon request by that municipal officer or employee, or upon receipt of a request made by the Board of Trustees or by any person, but only in accordance with Subsection G below, or upon the Board of Ethics' own initiative.
- (4) Require the presence of any person or persons initialing any inquiry.
- (5) Provide training and education to Village officers and employees with respect to the provisions of this code.
- (6) Prepare an annual report to the Board of Trustees summarizing the activities of the Board of Ethics.
- (7) Recommend changes to the Code of Ethics, if necessary.
- (8) Act only with respect to municipal officers and employees of the Village of Washingtonville as those individuals are defined in § 20-2 of this chapter.
- (9) As it deems appropriate Refer any matter ~~within its jurisdiction~~ to the County or State Board of Ethics with a copy of said referral to the Village Board.
- (10) Prescribe and promulgate rules and regulations governing its own organization and procedures in the manner consistent with this code.
- (11) Investigate complaints of alleged violations, report on same and make recommendations to the Village Board.

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#### G. Advisory opinions.

- (1) Upon the written request of any municipal officer or employee, the Board of Ethics shall render an advisory<sup>2</sup> opinion to such officer or employee with respect to any matter addressed by this code as such matter applies to the subject officer or employee. Said opinion shall be in writing and shall set forth reasons in support thereof.
- (2) In addition, the Board of Trustees, by majority vote, may make a written request to the Board of Ethics to render such an advisory opinion to a specified officer or employee with respect to any matter addressed by the code as such matter may apply to such officer or employee. Such requests by the Board of Trustees shall set forth specific reasons in support of the request. Upon such written request by the Board of Trustees, the Board of Ethics shall render an advisory opinion to the officer or employee.

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- ~~(3) In addition, upon receipt of a sworn complaint by any person alleging a violation of the code or upon determining on its own initiative that a violation of the code may exist, the Board of Ethics shall have the power and duty to conduct an investigation deemed necessary by the Board of Ethics to carry out the provisions of this code. Upon receipt of a sworn complaint by any person, the Board of Ethics shall determine, in its discretion, whether the complaint contains adequate allegations of fact to conduct an investigation. Such complaint must be in writing and 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.~~
- (34) An advisory~~f~~ opinion issued by the Board of Ethics to any municipal officer or employee shall not be disclosed to any person except by that officer or employee; or except in any action or proceeding, whether judicial or administrative, concerning the discipline, removal or other potential punishment of that officer or employee.
- (45) Upon written request of any board, commission or department of the Village, the Board of Ethics shall render written advisory opinions with respect to the interpretation or application in a general sense of any provision of this code.

#### H. Investigation of alleged violations.

1. Upon receipt of a sworn complaint by any person alleging a violation of the Code, the Board of Ethics shall have the power to conduct an investigation by a majority vote of the Board of Ethics determining that the complaint contains adequate allegations of fact that there has been a violation of the Code. Such complaint must be in writing and 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. Anonymous complaints and unsworn complaints will not be considered by the Board of Ethics.
2. Notwithstanding a determination by the Board of Ethics that a sworn complaint contains adequate allegations of fact to conduct an investigation, the Board of Ethics may decline to investigate such a sworn complaint if the Board of Ethics determines that the sworn complaint primarily concerns allegations unrelated to the Ethics Code, or that the allegations are more appropriately addressed by a court of law or other venue.
3. Upon a majority vote of the Board of Ethics determining that there is probable cause that a violation of the Code may exist, or that a municipal officer or employee has failed to submit an annual disclosure form, the Board of Ethics shall have the power to conduct an investigation.
4. The Board of Ethics shall conduct investigations in a reasonably prompt fashion. In conducting such investigations, the Board (or a member thereof conducting such investigation pursuant to authorization from the Board of Ethics) may request from the

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Village Board or any other Village board, commission or agency, or any Officer, employee, or consultant, any information, materials, and assistance necessary to properly conduct the investigation without the need for adhering to Freedom of Information protocols when soliciting Village government. Officials, employees, and consultants will respond to such requests in a timely fashion by providing the requested information, materials, and assistance unless otherwise prevented from doing so by applicable law.

5. Pursuant to the application of law and this code, the Board of Ethics shall render a written determination on whether a violation has occurred and report the determination to the Village Board in the form of an advisory opinion after conducting with due diligence an investigation of the matter set forth in the notice of violation. The decision shall set forth the reasons for the decision and any additional conclusions or recommendations. The Board of Ethics shall, when warranted, recommend sanctions and penalties, which recommendation shall not be binding on the Village Board. Thereafter, for any substantiated misconduct or violation, the decisions shall be public records, unless excepted by other statute, and shall be indexed and maintained on file by the Board of Ethics.
6. The Board of Ethics is not permitted to conduct an investigation of any of its members. Should the Board of Ethics receive notification alleging that it or any of its members has violated any provision of this code or any other law, the Board of Ethics shall promptly refer the matter to the County or State Ethics Board.

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§ 20-7. Disciplinary action.

A. The Village Board will consider in good faith the entirety of any advisory opinion from the Board of Ethics. Within 30 days of receiving the advisory opinion, the Village Board will provide a written response to the Board of Ethics for each advisory opinion for which the Board of Ethics had determined a violation occurred informing the Board of Ethics whether or not it will pursue the matter itself and, if so, what actions it will take (including penalties and/or sanctions, and, if not, why not.

B. After receiving the advisory opinion from the Board of Ethics, the Village Board may conduct a hearing on the matter in accordance with the applicable laws. Upon completion of such hearing, the Village Board may, in the appropriate case, impose sanctions and/or penalties.

C. If a hearing is held, the Village Board shall conduct and complete the hearing within 30 days after receiving the advisory opinion or as soon as practicable thereafter. The Village Board shall advise the Board of Ethics of its decision on the matter in writing and set forth its reasons within 30 days of the close of the hearing, unless the time for doing so is extended on consent of the person(s) accused.

D. In addition to any other penalties specified herein, any official, employee, or consultant who engages in any action that violates any provision of this code may be warned or reprimanded or suspended or removed from office or employment by the Village Board, pursuant to the provisions

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of this code, applicable law or by the person or body authorized by law to impose such sanctions and/or penalties.

**§ 20-87. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who knowingly violates any of the provisions of this code may be fined, suspended or removed from office or employment in the manner provided by law.

A. After determining that someone has violated the Code, the Board of Ethics shall recommend sanctions and penalties, as appropriate, to the Village Board, as follows:

- (1) Cease and desist the violation.
- (2) Immediately file any report, statement, or other information the Code requires, including an annual disclosure statement and/or
- (3) Make any other recommendation deemed appropriate to achieve the objectives of this Code.

B. Penalties for violations of the Code of Ethics shall range from \$50 to \$10,000 per occurrence, except as set forth in § 20-7G.

C. If the violation is failure to file any report, statement, or other information the Code requires, the violator shall be subject to a civil penalty of \$500 per occurrence in addition to any other sanctions or penalties or actions applicable under this Code or otherwise provided by law.

D. Alternatively, instead of, or in addition to, imposing these penalties, a violator shall be subject to a civil penalty of up to \$10 a day. Each distinct violation is a separate offense. However, the aggregate maximum penalty cannot exceed \$10,000.

E. If the violation involves knowingly and willfully making a false statement in a disclosure statement with intent to deceive or giving information which such person knows to be false, the violator shall be subject to a civil penalty not to exceed \$10,000 per occurrence in addition to any other penalties or actions applicable under this Code or otherwise provided by law.

F. The Board of Ethics may report violations that constitute criminal conduct to the District Attorney's Office or the State Attorney General's Office for criminal prosecution.

G. Violations that result in financial advantage are punished more harshly and penalties for such violations may exceed \$10,000 per occurrence. Anyone who violates the Code to financially benefit himself or herself, or his or her interests, is liable to the Village for damages equal to amount of his or her advantage and, if the violation is intentional, the Village may recover additional damages equal to up to twice the amount of actual damages. The Village may bring a civil action to recover the amount of damages.

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| § 20-98. Safeguards.

- A. The form of the disclosure statement shall be developed by the Board of Ethics.
- B. Completed disclosure forms shall be submitted in a sealed envelope labeled on the outside with the name of the officer or employee.
- C. Completed disclosure forms shall be kept in a locked filing cabinet with access restricted to Board of Ethics members only.

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