

## BOARD OF ETHICS, Town of North of Castle

### **Internal Guidelines**

These guidelines are intended to provide for the efficient working of the Board of Ethics. They are to be followed in the spirit in which they are written, rather than strict rules and regulations. The Code of Ethics prevails in the event anything herein is unclear or inconsistent.

1. Quorum. A quorum shall be four members of the Board.
2. Action. An affirmative vote of at least three members shall be required to determine whether there is reasonable cause to believe that a violation of the code has occurred. Any determination that a violation has occurred shall be made by a super majority vote (four votes).
3. Rules for Order. For procedures not covered herein, Robert's Rule of Order for Small Organizations may be consulted for guidance.
4. Meetings.
  - The Board of Ethics shall hold at least two meetings per year. The Chair shall consult with members of the Board at the beginning of each year to set the two mandatory meetings. The first of the two mandatory meetings shall take place in the first quarter of the year and the second meeting in the third quarter of the year. Additional meetings may be called upon the agreement of two or more members.
  - Location. Meetings shall be held at a public facility in the Town of North Castle.
  - Announcement. The date, time, location and proposed agenda of a meeting shall be posted on the Town Website at least 72 hours in advance of the meeting.

- Minutes. Unless otherwise required by law, within a reasonable period of time, the Secretary of the Board of Ethics shall file with the Town Clerk the approved minutes of each meeting. It is expected that the Town Clerk's office will post the approved minutes on the Town Website as soon as practical after receipt. Minutes shall not disclose any confidential information.
- Presiding Officer. The Chair and Secretary shall be selected by a majority vote of the members at the first meeting of each calendar year and serve for a one-year term. The Chair shall preside over meetings. If the Chair is absent, the Secretary shall serve as Chair.
- Agenda. With consultation from the rest of the members of the Board of Ethics, the Chair shall prepare an agenda for each meeting. Among the items that the Chair shall use in developing the proposed agenda shall be agenda items agreed to at the previous meeting, items proposed by members of the Board of Ethics, and new business concerning matters raised with or referred to the Board of Ethics since the previous meeting. One of the first items of business at each meeting shall be the acceptance or modification of the proposed agenda.
- Public Attendance. The Public may attend portions of meetings of the Board of Ethics that do not concern confidential matters. The Public does not attend when the Board convenes in Closed Session. Each open portion of the meeting shall have a brief (5-10 minute) portion devoted to public comments regarding matters not on the agenda. The public comment portion shall take place at the start of the meeting and may be extended at the Chair's discretion.

5. Investigations. In recognition of the need to properly address issues brought to the Board of Ethics, depending on their scope and

complexity, the Board of Ethics may solicit the advice of the Town Attorney, or substitute counsel as provided by section 27.19(I) of the Ethics Code. The Board of Ethics will use its best efforts to avoid interference with criminal investigations, will refer suspected criminal misconduct to the District Attorney and will refrain from acting while a criminal investigation is pending if so requested by the District Attorney.

If any person attempts to influence or coerce a Board of Ethics member regarding a pending complaint, the Board of Ethics member shall report the substance of the communication to the Board of Ethics at or before its next regular meeting.

After a complaint has been provided to the Board of Ethics by the Town Clerk, and prior to any investigation undertaken of the complaint before the Board of Ethics, no member of the Board of Ethics or any other Board of Ethics' 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 the members of the Board of Ethics may discuss the complaint among themselves. In the event that the Board of Ethics determines there is reasonable cause to believe a violation has occurred, the Board of Ethics shall, within 20 business days, provide written notice of reasonable cause to the subject of the complaint; to the complainant, if any; and to the Town Board. Such determination of reasonable cause shall be confidential and shall not be made public or disclosed unless applicable law requires such records be produced.

6. Opinions. Requests for Opinions from the Board of Ethics shall be made in writing signed by the Town officer, employee, professional, consultant and agency requesting the advisory opinion. The Board of Ethics may institute standardized procedures and/or formats for submitting requests for opinions to the Board of Ethics. An Advisory Opinion is not to be sought regarding the actions or perceived unethical situations and/or

behaviors of others. Opinions issued by the Board of Ethics shall be in writing.

Informal Advisory Opinions shall be confidential. Formal Advisory opinions are not confidential, except that where it is necessary to keep the identity of the requestor confidential the name and other identifying information will be redacted from the opinion. Such advisory opinions will be rendered, if practicable, within 30 days after the written request. The 30 day time period may be extended an additional 30 days at the Board's discretion, and extended again. Formal advisory opinions rendered by the Board of Ethics at the conclusion of an investigation shall be public records and shall be indexed and maintained on file in an appropriate manner by the Board. Informal advisory opinion, issued in response to a written request for an interpretation of the Code, shall be confidential and shall not be disclosed unless applicable law requires such records be produced.

Records of all opinions issued by Board of Ethics shall be maintained by the Town Clerk, except if such records are confidential in which case they shall be maintained by the Town Attorney. All information acquired by the Board in the performance of their review and duties is considered confidential and is not to be disclosed, except upon request of the respondent as required by the provisions of Article 7 of the Public Officers Law or other State or Federal law or regulation.

7. Amendments to the Guidelines. These guidelines may be amended at a public meeting of this Board by a majority vote of the members.

8. The Chair is the only person authorized to speak on behalf of the Board and all formal communications on behalf of the Board shall be through the Chair. The Chair shall strive to seek consensus from the other Board members before speaking on behalf of the Board. Communications among and to Board members should be shared with all Board members.

9. The responsibilities of each role may include, but not be limited to the following:

- **Chair:** Ensures that issues and differences of opinion are addressed by the Board; promptly distributes the written agenda, if any, developed at the previous meeting; and keeps Board members focused on problem solving and decision making.
- **Secretary:** Prepares and distributes minutes of the previous meeting (and distributes such minutes by e-mail prior to the next meeting); records the data, information, discussions, and decisions at the current meeting, lists next steps and benchmark dates.

## **RECEIPT AND INVESTIGATION OF COMPLAINTS**

A complaint is a concern conveyed to the Board of Ethics in writing regarding allegations of violations of the Ethics Code of the Town of North Castle and/or the General Municipal Law of the State of New York.

As established by law, the Town of North Castle Board of Ethics shall have such powers and duties as shall be provided by or pursuant to, Article 18 of the General Municipal Law of the State of New York and Ethics Code of the Town of North Castle.

### **General Protocol**

1. All complaints will be reviewed by the Board of Ethics in a closed session.
2. The members of the Board of Ethics may seek to obtain information on matters before it, provided that the majority of the members of the Board of Ethics agree with such a course of action.
3. Discussions held in closed session shall remain confidential and will not be disclosed except as may be required by law.
4. Board members shall recuse themselves from participation in discussions, deliberations, or voting in any matter in which they have a conflict of interest. In the event there is a question about whether an appearance of a conflict of interest exists or may exist, the Board shall reach a consensus on whether an individual Board member shall be recused.
5. All actions, decisions and recommendations of the Board of Ethics shall be by majority vote, except that a determination of violation of the Ethics Code shall be by a super majority (four votes-required by our ordinance).
6. Except to the extent such records must be disclosed, by law the complaint records shall remain confidential.

The procedure for Receipt and Investigation of Complaints shall be as follows.

### **A. Receipt of Complaints**

1. Complaints submitted and delivered in compliance with Sections 27-19 (J) (3) and 27-19 (K) of the Code of Ethics may be filed by individuals, a member of the Board of Ethics or a member of the Town Board.

2. 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:

- The members of the Board of Ethics may discuss the complaint among themselves;
- The members of the Board may obtain legal advice from the Town Counsel or special counsel as the case may be; and
- If any person attempts to influence or coerce 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 or before its next regular meeting.

### **B. Preliminary Review of Complaint**

The Board of Ethics shall conduct a preliminary Complaint Review resulting in one of the following steps:

1. Completeness of Complaint- Complaint is returned for more information or clarification.
2. Dismissal- In the event the Board of Ethics finds no prima facie substance to the complaint, it will be dismissed.
3. Referral to the District Attorney- Should the written complaint allege a violation of law under the jurisdiction of the District

Attorney, the matter may be forwarded directly to the District Attorney to take the appropriate action before proceeding as set forth in section C below.

4. Acceptance of Complaint for Investigation - The Board now proceeds to the Initial Complaint Review.

### **C. Initial Complaint Review**

See Section 27-20 of the Town Code.

- A. In the event a proceeding is commenced by complaint by an individual, on its own initiative, or a member of the Town Board, the Board of Ethics, within ten business days of receipt of a complaint deemed complete, shall review the allegations to determine whether there is reasonable cause to believe that a violation of the Code has occurred. The Board shall render its determination, by majority vote, within five business days thereafter.
- B. In the event a proceeding is commenced by complaint by an individual, on its own initiative, or a member of the Town Board, the Board of Ethics shall inform the Town Attorney.
- C. In the event the Board of Ethics determines that the complaint does not allege a violation of the Code, the complaint shall be dismissed and simple notice of the dismissal, without further detail, shall be mailed to the complainant, the Town Board, and to 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 or alternate member of the Board of Ethics, unless applicable law requires such records be produced. However, the subject of the complaint may disclose any records provided to him or her.
- D. In the event that a member of the Board of Ethics raises the possibility of a violation of this Code, the Board of Ethics

shall first determine, by majority vote, whether there is reasonable cause to believe that a violation of the Code has occurred. In the event the Board of Ethics 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, unless applicable law requires such records be produced. However, the subject of the complaint may disclose any records provided to him or her.

- E. In the event that the Board of Ethics determines there is reasonable cause to believe a violation has occurred, the Board of Ethics shall, within 20 business days, provide written notice of reasonable cause to the subject of the complaint; to the complainant, if any; and 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 applicable law requires such records be produced.
- F. If reasonable cause is established, the Board of Ethics shall schedule a hearing, to be commenced within 60 days, at which the subject of the complaint 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 and subject to the rules of due process, and although formal rules of evidence will not apply they will serve as a guide. The Board of Ethics shall issue a written decision, containing specific findings, within 30 days of the completion of the hearing. Any determination that a violation has occurred shall be made by a super majority vote (four votes). 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 be a matter of public record and kept on a docket maintained by the Board of Ethics.

- G. Upon receipt of a form by the person requesting an investigation of an alleged violation of this Code or upon the Board of Ethics determining on its own initiative that a violation of this Code may exist, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provisions of this Code, subject to section 75 of the Civil Service Law when applicable. In conducting any such investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses and compel their attendance and require the production of any books or records which it may deem relevant or material. The form to be utilized by individuals requesting an investigation of an elected official for an alleged violation of this Code shall be the form available in the office of the Town of North Castle Clerk and on the Town's website (see Board of Ethics).
- H. The Board of Ethics investigation shall be confidential until such time that a final determination of the Board of Ethics has been made. Thereafter, the Board of Ethics shall state, in writing, its disposition of every complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition to the Town Board. Any findings of violations of this Code or other applicable law shall be served by first class mail upon the subject of the investigation within seven days of such findings of violations of this Code, and violations shall be made a public record and shall be indexed and maintained on file by the Town Clerk.
- I. Nothing in Section 27-20 shall modify or replace any written collective agreement between a public employer or employee organization.

## **D. Advisory Opinion**

See Section 27-19 G of the Town Code.

G. The Board of Ethics shall render advisory opinions to the Municipal Officers or Employees of the Town of North Castle pursuant to article 18 of the General Municipal Law and this Code. Such advisory opinions shall be rendered pursuant to the written request of any such Municipal Officers or Employees under such rules and regulations as the Board of Ethics may prescribe. Formal advisory opinions rendered by the Board of Ethics at the conclusion of an investigation shall be public records and shall be indexed and maintained on file in an appropriate manner by the Board. Informal advisory opinions, issued in response to a written request for an interpretation of the Code, shall be confidential and shall not be disclosed, unless applicable law requires such records be produced.