

TOWN OF NORTH CASTLE

Local Law No. 4 For the Year 2016 Adopted June 8, 2016

A LOCAL LAW to amend Chapter 27 of the Code of the Town of North Castle

BE IT ENACTED by the Town Board of the Town of North Castle as follows:

Section 1. Chapter 27 of the Code of the Town of North Castle, entitled “Ethics, Code of” is hereby repealed in its entirety.

Section 2. Chapter 27 of the Code of the Town of North Castle, entitled “Ethics, Code of” is hereby adopted as follows:

§ 27-1. Purpose.

Officers, employees whether elected or appointed, paid or unpaid, including members of any administrative Boards, commissions, committees or other agencies, of the Town of North Castle hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town of North Castle recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics sets forth standards of conduct for the guidance of those individuals.

§ 27-2. Definitions.

“Board” means the governing board of a municipality and any municipal administrative board (e.g. Planning Board, Zoning of Board of Appeals), commission, committee, or other agency or body comprised of two or more municipal officers or employees.

“Code” means this Code of Ethics.

“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 or his or her Relative is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock.

“Municipality” means Town of North Castle. The word “Municipal” refers to the Municipality.

“Municipal Officer or Employee” means a paid or unpaid officer or employee of the Town of North Castle, including, but not limited to, the members of any Municipal Board, whether elected or appointed, paid or unpaid, including members of any administrative Boards, commissions, committees or other agencies.

“Relative” means a spouse, parent, step-parent, sibling, step-sibling, sibling’s spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a Municipal Officer or Employee, and individuals having any of these relationships to the spouse of the Municipal Officer or Employee, including any such relationship by adoption, marriage, civil union, or same-sex marriage.

§ 27-3. Applicability.

This Code applies to the Municipal Officers or Employees, and shall supersede any prior Municipal codes of ethics. This Code is voluntarily enacted pursuant to Section 806 of the General Municipal Law and Section 10 of the Municipal Home Rule Law. The provisions of this Code 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 North Castle.

§ 27-4. 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.

§ 27-5. Treatment of public.

As further set forth herein, Municipal Officers or Employees shall treat all members of the public, whether a person, firm, corporation or other organization, with equal consideration and without special advantage and shall not give preferential treatment to former Municipal Officers or Employees.

§ 27-6. 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 immediately disclose in writing, including by electronic means, the nature of the Interest.
- B. No Municipal Officer shall, without prior disclosure, vote on any matter which materially and directly benefits a political supporter who, in the election just prior to when that matter came before the Board, contributed more than \$500 to that Board member's

election campaign or gave that Board member a contribution of goods or goods and services valued at more than \$500.

- C. The disclosure, including the nature of the Interest, 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.
- D. The disclosure shall be filed as follows:
 - 1. In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board.
 - 2. 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 Board shall be made publicly at a meeting of the Board and shall be included in the minutes of the meeting.
 - 3. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the Municipal Officer or Employee or the Board having the power to appoint to the person's position.
- E. Municipal Officers and Employees, other than seasonal employees, shall complete a Town of North Castle disclosure form upon election or appointment and thereafter on an annual basis.

§ 27-7. 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/or 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, partner, business associate 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 and such alternate Board members, if any, as may be provided for in the applicable code or rules; or

2. if the power or duty 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 Municipal 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 shall refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 27-8. Disclosure, recusal and abstention not required.

A. This Code's requirements relating to recusal and abstention 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. Municipal Officers or Employees;
 - b. all residents or taxpayers of the Municipality or any area, district, or special district of the Municipality; or
 - c. the general public.

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 7 of this Code;
2. which comes before a Municipal officer when the Municipal officer would be prohibited from acting by section 7 of this Code and the matter cannot be lawfully delegated to another person.

§ 27-9. Investments or transactions in conflict with official duties.

A. Each Municipal Officer or Employee shall abstain from making personal investments in enterprises which he or she has reason to believe will be directly or indirectly involved in decisions, recommendations or the giving of advice to be made by him or her which will otherwise create conflict between his or her duty in the public interest and his or her private interest or would otherwise materially impair the person's independence of judgment in the exercise or performance of his or her official powers and duties. This shall not preclude a Municipal Officer or Employee from acquiring an investment in real property located within the Municipality and used as his or her personal residence or place of business.

- B. No Municipal Officer or Employee, nor any firm or association of which such Municipal Officer or Employee is a member, nor corporation, 5% portion of the stock of which is owned or controlled directly or indirectly by such Municipal Officer or Employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Town in which such Municipal Officer or Employee serves or is employed.

§ 27-10. Private employment in conflict with official duties.

- A. No Municipal employee, during his or her tenure as a Municipal employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment creates a conflict with or impairs the proper discharge of his or her official duties.
- B. No Municipal officer, during his or her tenure, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:
 - 1. violates section 805-a(1)(c) or (d) of the General Municipal Law;
 - 2. can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this Code;
 - 3. can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a Municipal officer; 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.

§ 27-11. 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 that Municipal Officer or Employee, either individually or as a member of a Board for six months after serving as a Municipal Officer or Employee.
- 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 served.
- 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.

§ 27-12. Personal representations and claims permitted.

This Code shall not be construed as prohibiting a Municipal Officer or Employee from:

- A. representing himself or herself, or his or her spouse or minor children before the Municipality; or
- B. asserting a claim against the Municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 27-13. Municipal resources

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

§ 27-14. 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 or 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.

§27-15. Nepotism.

Except as otherwise required by law:

- A. Every Municipal Officer or Employee of a Relative seeking employment within any department section or function of the Municipality shall disclose the relationship as provided herein. Such disclosure shall be made in writing to the Town Clerk and shall be made at the earliest opportunity following the date upon which such Municipal Officer or Employee first learns or has knowledge of the application.
- B. No Municipal Officer or Employee, either individually or as a member of a Board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the Municipality or a Municipal Board.
- C. Other than those in place at the time this Code takes effect, no Municipal Officer or Employee may supervise a Relative in the performance of the Relative's official powers or duties. Incidental supervision as may be required by exigent circumstances shall not be construed as a violation of this subsection C.

§ 27-16. Political Solicitations.

- A. No Municipal Officer or Employee shall directly or indirectly solicit, 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.
- C. No Municipal Officer or Employee shall directly or indirectly solicit, attempt to compel, or induce to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value from any person who, to the knowledge of the Municipal Officer or Employee, has or, within the previous 12 months, has had any business dealing with the Municipality or is reasonably expected to have business dealings with the Municipality in the next twelve months. This subsection shall not prohibit a general solicitation of a class of persons.

§ 27-17. Confidential Information.

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.

§ 27-18. Gifts.

- A. 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.
- 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 if:
 - 1. 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 Municipal Officer or Employee.
 - 2. 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 Municipal Officer or Employee during the preceding twelve months.
- D. Any Municipal Officer or Employee who is the unwitting recipient of a prohibited gift shall return it and advise the sender that the acceptance of such gift is prohibited. If the sender persists, the Municipal Officer or Employee shall notify the Town Board of the incident in writing.
- E. This section does not prohibit:
 - 1. gifts made to the Municipality;
 - 2. gifts from a person with a family or personal relationship with the Municipal 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 in the form of food or beverage not to exceed \$25 (twenty-five dollars) in any single instance and no more than \$200 (two-hundred dollars) in the aggregate over a single calendar year;
 - 4. gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
 - 5. unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
 - 6. 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
 - 7. 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.

§ 27-19. Board of Ethics.

- A. The Board of Ethics in existence at the time of the enactment of this Section is hereby dissolved.
- B. There is hereby established a Board of Ethics for the Municipality. The Board of Ethics shall consist of five members. The members of such Board of Ethics shall be appointed by the Town Board and shall serve for a term of 5 years, except as specified in subsection D, and receive no salary or compensation for their services as members of the Board of Ethics. No more than three members shall be members of the same political party. All Board of Ethics members shall be residents of the Town of North Castle. No Board of Ethics member shall be a paid Municipal Officer or Employee.
- C. 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 county, state or national level, shall not be eligible for appointment to the Board of Ethics.
- D. 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.
- E. The Town Board shall also appoint two alternate members, each of whom shall be eligible to serve if a member or members of the Board of Ethics is unable to proceed on a particular matter. The alternates shall not be from the same political party. When not serving on the Board of Ethics, the alternate members may attend all meetings and proceedings of the Board of Ethics but shall not vote on any matter unless he or she is serving on the Board of Ethics as a member on the particular matter.
- F. Notwithstanding a member's term, a member may be removed from the Board of Ethics by the Town Board for cause. Removal shall require approval by at least four affirmative votes cast by members of the Town Board. Grounds for removal include, but are not limited to: neglect of duty, misconduct in office, inability to discharge the powers or duties of office, violation of this Code, or conviction of a crime.
- 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.

- H. A Municipal Officer or Employee whose ethical violation occurs in reliance on an advisory opinion shall not be subject to sanction or prosecution where such reliance is reasonable.
- I. The Board of Ethics may solicit the advice of the Town Attorney. In the event that the Town Attorney has excused himself/herself from said matter, the Town Board shall provide the Board of Ethics with the services of substitute counsel. In addition, the Board of Ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto.
- J. The Board of Ethics shall have the power and authority to investigate allegations of unethical practices in violation of this Code, and to render reports of such investigations and recommendations to the Town Board for action:
 - 1. upon complaint against a member of the Town Board being filed by any member of the Town Board;
 - 2. upon complaint against any other Municipal Officer or Employee being filed by two members of the Town Board;
 - 3. by an individual who shall submit the necessary documentation to the Board of Ethics as described in subsection K but only regarding elected officials; or
 - 4. on its own initiative based on a majority vote.
- K. Complaint forms submitted by an individual citizen must be verified under oath and based on personal knowledge and shall at a minimum bear the legible signature of the person filing the complaint, include that person's address and telephone number and set forth in reasonable detail, with supporting documentation if appropriate, the conduct alleged to have violated the Code. The completed form and support materials shall be either mailed by certified mail or personally filed with the Town Clerk.
- L. The member of the Board of Ethics who calls a potential violation to the attention of the Board of Ethics shall recuse him/herself from all further proceedings with respect to that alleged violation.
- M. A quorum of the Board of Ethics shall consist of four members.
- N. The Board of Ethics shall be reimbursed for all reasonable expenses incurred in the performance of their duties.

§ 27-20. Proceedings

- 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, 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. The Town Attorney shall inform the Town Board.
- 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 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 held 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. 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 or deem relevant or material. The form to be utilized in requesting an investigation of an alleged violation of this Code shall be the form available in the office of the Town of North Castle Clerk and on the Municipality's website.
- 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 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.

§ 27. 21. Penalties.

Any Municipal Officer or Employee who violates this Code may be censured, suspended or removed from office or employment, in the manner provided by law. Any penalty imposed pursuant to this section shall be so imposed by the Town Board after considering the recommendation, if any, of the Board of Ethics

§ 27-22. 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, Sub division 3, specifically excluding official positions and titles of authority in political party structures on the county, state or national level, shall not be eligible for appointment to the Planning Board, the Zoning Board of Appeals, the Assessment Board of Review, the Architectural Board of Review or the Conservation Board of the Town of North Castle.
- 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 North Castle, shall not be eligible for appointment to the Planning Board, the Zoning

Board of Appeals, the Assessment Board of Review, the Architectural Board of Review or the Conservation Board of the Town of North Castle.

- C. Any new advisory Board created by resolution of the Town Board of the Town of North Castle shall fall under the restrictions for membership eligibility prescribed by this Code unless specifically excluded by resolution of the Town Board.

§ 27. 23. Posting and distribution.

- A. The Town of North Castle shall promptly 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 Municipality's control. The Code shall be posted within ten days following the date on which the Code takes effect. An amendment to the Code shall be posted within ten days following the date on which the amendment takes effect.
- B. The Town Clerk shall promptly cause a copy of this Code, including any amendments to the Code, to be distributed to every person who is or becomes a Municipal Officer or Employee of the Town of North Castle.
- C. Every Municipal Officer or Employee who receives a copy of this Code or an amendment to the Code shall acknowledge such receipt in writing. Such acknowledgments shall be filed with the Town Clerk who shall 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 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.

§27. 24. Effective date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.