

Local Law 2 of 2008

A Local Law to establish a Board of Ethics for the Town of Barrington.

Section 1. PURPOSE

Pursuant to the provisions of the General Municipal Law, the Town Board of the Town of Barrington recognizes that there are rules of ethical conduct for public officers, employees and appointees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our local government. It is the purpose of this local law to promulgate rules of ethical conduct for the officers, employees and appointees of the Town of Barrington. These rules shall serve as a guide for official conduct of the officers, employees and appointees of the Town of Barrington. The rules of ethical conduct of this chapter as adopted shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct of officers, employees and appointees.

Section 2. DEFINITIONS

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

INTEREST-A pecuniary or material benefit accruing to an officer, employees or appointees unless the context otherwise requires.

RECUSAL-The act of an official to remove oneself from participation in a matter to avoid a conflict of interest. The Official should disclose his conflict and may not deliberate, vote or participate in any way regarding this particular matter.

OFFICER, EMPLOYEE OR APPOINTEE-An officer, employee or appointee of the Town of Barrington whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be an "officer, employee or appointee" solely by reason of being a volunteer fireman or civil defense volunteer, except a Chief Engineer or Assistant Chief Engineer.

OFFICIAL-As used in the text of this local law shall mean any and/or all of the following: Officer, Employee or Appointee.

Section 3. CODE OF ETHICS AND STANDARDS OF CONDUCT

Every officer, employee or appointee of the Town of Barrington shall be subject to and abide by the following standards of conduct:

A. Gifts-An official may not solicit or receive any gift, whether financial or in any other form, from any person who is doing or seeking to do business of any kind with the Town of Barrington; has done business with the Town during a defined period; is engaged in activities that are regulated or controlled by the Town; or from anyone representing a person or entity before a Town agency. Generally, an official may not receive or solicit any such gift, creating the appearance that his official duties may be influenced or that his official duties may be influenced or that his responsibility to make impartial decisions solely in the public interest is compromised.

Gift must be defined, for example, to exclude gifts from family members; attendance at local social events such as holiday festivities; benefits available to the general public; functions that officials routinely attend, such as chamber of commerce events; and an event or activity fulfilling a public purpose.

B. Private Employment-An official shall not solicit, negotiate for or commit to accept private employment from any person doing business with or having any matter pending with the Town.

C. Representation-An official shall not appear on behalf of, or represent a person in any matter before a municipal agency except on his own behalf.

D. Confidential Information-An official or former official may not disclose confidential information or use it to further his or another person's private interests or in any way utilize the information for non-public purposes.

E. Subordinates-No official shall solicit political contributions from subordinates or request that they attend political functions or engage in any political activity.

F. Revolving Door-No official who has left municipal service shall appear before or receive compensation in a matter before his former agency for a period of one (1) year after departure. He is permanently barred from appearing or receiving compensation regarding a matter he was personally involved in as a town official.

G. Incompatible Positions-Judicial Standards

An official is prohibited from:

- a. Holding more than one position with the town when one is subordinate to the other
- b. Holding more than one position with the town when the duties of the positions conflict

H. Training-Each municipal official annually shall receive training concerning the requirements of the code of ethics and the procedure for seeking an opinion or investigation by the board of ethics. Copies of the code and amendments to the code shall be provided to all officials.

I. Representation before a town board or agency-He shall not receive or enter into any agreement, expressed or implied, for compensation for services to be rendered in relation to any matter before any board of the Town, court or agency of which he is an officer, member or employee or for which he is employed to give professional advice or of any Town agency over which he has jurisdiction or to which he has power to appoint any member, officer or employee.

J. Disclosure of Interest in Legislation-To the extent that he knows thereof, a member of the Town Board or any officer, employee or appointee of the Town of Barrington, whether paid or unpaid, who participates in the discussion of or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.

K. Investments in Conflict with Official Duties-He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his official duties.

L. Private Employment-He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.

M. Future Employment-He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Barrington

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.

N. Conflict of Interest-No official may take action that provides a financial or other personal benefit to the official, relatives (define), customers, clients, an employer, or a person who has made campaign contributions to the official within a 12 month period.

O. Recusal-An official must recuse himself when faced with the above conflicts.

P. Appearance of Impropriety-An official must avoid circumstances that compromise his ability to make decisions solely in the public interest or create an appearance of impropriety.

Q. Nepotism-Spouses and other family members of the municipal official may not serve in positions whose duties conflict or appear to conflict within the duties of the official. They may not serve on a commission, board or body of which the official is a member.

R. Town Property and Resources-No officer, employee or appointee may use town-owned property, assets or any resources for personal purposes or profit or to benefit any person. Use of these resources is restricted to the conduct of official business, for the benefit of all residents and to further an authorized public purpose.

Note: Although sections 1, 2 and 3 are included in most codes of ethics, they require consideration of specific facts and circumstances. This is the role of a board of ethics, which can engage in fact-finding and issue an advisory opinion.

Section 4. BOARD OF ETHICS-Specifies procedure for seeking advisory opinions or making complaints with the board of ethics.

1. This section is enacted pursuant to the authority of §10 of the Municipal Home Rule Law authorizing a town to adopt a local law which amends or supersedes any provision of the New York State Law in relation to the property, affairs or government of the town or in relation to any of the other enumerated subject matters in such §10, unless there is a state legislative restriction on such amendment or supersession. It is the intent of the Barrington Town Board to

supersede the General Municipal Law 808 as it relates to the composition of the local Board of Ethics.

2. There is hereby established a Board of Ethics consisting of five members. The members of the Board of Ethics shall be appointed from among nominees selected by a citizen's committee that will be appointed by the Town Board from time to time as needed and that shall consist of three to five committee members that shall be persons other than officers, employees or other appointed officials of the Town of Barrington. All potential nominees shall be subject to background checks prior to nomination and must furnish no less than three (3) personal and/or professional references. The members of the Board of Ethics shall serve without compensation for a three-year term of office. The terms of members of the Board of Ethics shall be so fixed that one term shall expire at the end of each calendar year. If any vacancy shall occur other than by expiration of the term, it shall be filled by the Town Board by appointment for the unexpired term. The Town Board may only remove a member of the Board of Ethics for cause.
3. 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 officers, employees and appointees of the Town of Barrington pursuant to the written request of such officer, employee or appointee with respect to Article 18 of the General Municipal Law and the foregoing Code of Ethics, under such rules and regulations as the Board may prescribe.

The Board of Ethics shall enjoy the right to issue subpoenas to require attendance of any person and the production of any document or other evidence as provided for in the New York State Civil Practice Law and Rules. Under no circumstances shall the Board of Ethics investigate any matter subject of a pending criminal investigation and the Board of Ethics shall immediately suspend any investigation upon notice of a pending criminal investigation.

4. A majority vote of the members of the Board of Ethics shall be necessary for any action taken by the Board of Ethics.
5. The Board of Ethics is subject to the following rules of procedure:

- i. The Board of Ethics shall only permit request for advisory opinions from officers, employees and appointees having the apparent conflict.
 - ii. The opinion request must be in writing and provide all relevant facts.
 - iii. The Board of Ethics shall consider the Code of Ethics, opinions of the New York State Attorney General and the New York State Comptroller, as well as relevant provisions of the General Municipal Law and Town Law.
 - iv. Advisory Opinions shall only answer the question raised.
 - v. The name of the person requesting the advisory opinion shall be kept confidential.
 - vi. The Board of Ethics may access an attorney assigned to it by the Town Board, if any.
 - vii. Advisory Opinions are confidential and exempt from Freedom of Information Law requests.
 - viii. Meetings of the Board of Ethics are exempt from the Open Meetings Law.
 - ix. Meetings of the Board of Ethics shall not be held at the same time as meetings of the Town Board, Planning Board or Zoning Board of Appeals.
 - x. The Board of Ethics may establish such other and additional rules of procedures for the conduct of its business not in conflict with the procedures set forth above.
6. The Board of Ethics may recommend that the Town Board discipline officers and employees for violations of these ethics provisions. The Board of Ethics may also refer an investigation to the District Attorney's Office.

Section 5. FILING OF CLAIMS

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer, employee or appointee of any claim, account, demand or suit against the Town of Barrington, or any agency thereof, on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Section 6. DISTRIBUTION OF COPIES

The Immediate Departmental Supervisor shall cause a copy of the Ethics Law to be distributed to every officer, employee and appointee of the town within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties in relation to the Town. The failure of the Supervisor to distribute copies of the code shall have no effect on the duty of compliance by officers, employees and appointees of the Town. All officers, employees, and appointees of the Town must sign an acknowledgement verifying receipt of the Ethics Law.

Section 7. PENALTIES

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

Section 8. GENDER NEUTRALITY

The use of the word "he" and "him" are for convenience only and shall be construed to read as gender neutral whenever so required.

Section 9. SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Local Law or the application thereof to other persons or circumstances, and the Town of Barrington Town Board hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 10. REPEALER

All Ordinances, Local Laws and parts thereof inconsistent with this Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 11. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.