

## New Laws



Title	Subject	Affects
L.L. No. 3-2022	Ethics, Code of Amendment; Noise Pollution Control Amendment	Ch 7, Ch 66

[HISTORY: Adopted by the Town Board of the Town of Chester 8-10-2005 by L.L. No. 4-2005.<sup>[1]</sup> Amendments noted where applicable.]

**GENERAL REFERENCES**

Officers and employees — See Ch. 16.

**ATTACHMENTS**

007a Attach A Disclosure Form

007b Attach B Distribution List

[1] *Editor's Note: This local law also repealed former Ch. 7, Code of Ethics, adopted 10-6-1970 by L.L. No. 4-1970.*

**§ 7-1 Title.**

This code shall be known as the "Ethics Code of the Town of Chester" and shall be hereinafter referred to as "the code."

**§ 7-2 Findings.**

- A. The Chester Town Board does hereby find that the public confidence and trust in local government depends on the integrity, impartiality and commitment to ethics of public officials and public employees.
- B. The reputation and efficiency of, and public confidence and faith in, municipal government suffer whenever the public trust is violated by an official or employee who commits an act of misconduct, attempts to realize personal financial gain or does not avoid conflicts of interest or the appearances of impropriety.
- C. There is a need to ensure that the citizens of the Town of Chester have complete confidence in their local government officials, professionals and employees.
- D. It is essential that there exists legislation to ensure that the highest standards of conduct in municipal government will be enforced regardless of any change in the Town Board.
- E. The Chester Town Board determines that every public official and public employee should:
  - (1) Put loyalty to the Town and to the highest moral principles above all private interests.
  - (2) Uphold the United States and New York Constitutions, all laws, statutes and regulations of the United States and all governments therein and all ordinances and regulations of the Town of Chester and neither condone nor be a party to their evasion.
  - (3) Give a full day's work for a full day's pay.
  - (4) Avoid conflicts of interest and strive to avoid the appearance of conflicts of interest, not only being above reproach but appearing above approach.
  - (5) Never use for personal benefit confidential information obtained in the course of one's duties.
  - (6) Never give special favor or special privilege to anyone in return for any personal benefit.
  - (7) Never accept favors, gifts or benefits for oneself or a member of one's family except in situations specified in this code.
  - (8) Make no use of municipal employment or resources for private gain or political benefit for any individual or entity or for other than official government purposes.
  - (9) Attempt to remedy or eliminate public corruption, waste and inefficiency wherever and whenever discovered.
  - (10) Demonstrate the highest standards of personal integrity, truthfulness and fortitude in all public activities.
  - (11) Strive for personal professional excellence and encourage the professional development of all public officials and public employees.
  - (12) Exercise whatever discretionary authority held to promote the public interest.
  - (13) Serve the public with respect, concern, courtesy and responsiveness and administer the public's business with professional competence, fairness, impartiality, efficiency and effectiveness, recognizing that service to the public is beyond service to oneself.

(14) Uphold these ethical principles, ever aware that public service and public employment are public trusts.

- F. It is the duty of the Chester Town Board to earn and maintain for the government of the Town of Chester a reputation for honesty and integrity in government. In the event of any ambiguity in the construction of this code, such shall be resolved in favor of the public interest as opposed to the convenience or inconvenience of a public official or employee.

### § 7-3 Intent.

It is the policy of the Town of Chester and purpose of this chapter to establish standards and guidelines for ethical conduct of officials and employees. Though assurance of good conduct will rest primarily upon personal integrity and community vigilance, these provisions of standards are designed to establish parameters within which the public may have confidence that decisions of local government are arrived at with impartiality and free of conflicts of interest. It is the purpose of this chapter to protect officials and employees from unwarranted attacks upon their integrity while raising public confidence by defining courses of conduct contrary to the public interest and thereby separating real from inconsequential conflict recognizing that local government attracting and retaining competent persons in the public service should not require divestiture of only those proprietary interests which would appear to bear upon independence of judgment and/or the appearance of bias.

### § 7-4 Definitions and word usage.

The following words and phrases, when used in this code, shall have, unless the context clearly states otherwise, the meanings given to them in this section:

#### ABUSE OF AUTHORITY

An arbitrary or capricious exercise of power of an official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or herself or to preferred other persons.

#### APPOINTED OFFICIAL

- A. An individual holding an office named in the code or in any other ordinance of this Town, to which he is named by the Town Board or any elected officer of the Town whether that individual serves full-time or part-time, whether or not he receives compensation from the Town for his/her services and whether or not h/she holds a single-named office or is one of several individuals serving on a board, commission or authority.
- B. An individual employed by the Town on a full-time or part-time basis, exercising supervisory authority over any other municipal employee and/or performing nonministerial action in connection with municipal affairs.

#### BUSINESS

Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or any legal entity organized for profit.

#### BUSINESS DEALING WITH THE TOWN

Any contract, service, work or business with, any sale, renting or other disposition to, any purchase, leasing or other acquisition from and any grant, license, permit or other privilege from the Town or any municipal board or commission and any performance of or litigation with respect to any of the foregoing.

#### BUSINESS WITH WHICH HE OR SHE IS ASSOCIATED

Any business in which the person or a member of the person's family is a director, officer, owner, employee or holder of stock or percentage ownership exceeding 5% of the equity at fair market value of the business or more than 5% of the assets of the economic interests in indebtedness.

#### CANDIDATE or CANDIDATES

Any individual, individuals or slate of individuals seeking any office which is filled by the vote of the electorate.

#### COMPENSATION

Any thing of economic value, however designated, which is paid, granted, given, donated or transferred or to be paid, loaned, granted, given, donated or transferred for personal services to any person, official or employee of the Town.

#### CONFLICT OF INTEREST

Any situation in which a public official or public employee is in a position where his or her vote or decision can result in a financial benefit to himself or herself or a member of his or her immediate family other than those benefits which may accrue to the public generally.

#### ETHICS BOARD

A duly appointed and qualified Ethics Board of the Town of Chester, comprised of five individuals who are not regular employees or elected officials of the Town and who shall possess qualifications necessary for carrying out their duties as members of the Ethics Board and who shall be retained by the Town to conduct investigations, swear witnesses, take testimony and make appropriate determinations as to whether or not violations of this chapter have been made.

#### ELECTED OFFICE

The office of Supervisor, Town Clerk, Highway Superintendent, Receiver of Taxes and members of the Town Board.

#### FAMILY MEMBER

Any spouse, child, grandchild, parent, grandparent, sibling, in-law, aunt, uncle, niece, nephew, ex-spouse, stepparent, stepchild, half brother, half sister or the spouse of any such relative or person.

#### **GIFT**

- A. Anything which is received without consideration of equal or greater value. "Gift" shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business. "Gift" shall include, but not be limited to, any payment, favor, gratuity, thing of value, service or services, promise, discount, admission, performance of any act or series of acts, entertainment, reward, loan which is not commercially reasonable and made in the ordinary course of business or promise of any of the preceding.
- B. "Gift" shall not include:
- (1) A political contribution reported as permitted by law;
  - (2) A commercially reasonable loan made in the ordinary course of business; or
  - (3) A gift received from a relative.

#### **INCOME**

Any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof.

#### **PERSON**

Any individual, union, association, committee, club or other organization or group of persons.

#### **PUBLIC EMPLOYEE**

Any individual employed by the Town of Chester, with the exception of public officials.

#### **PUBLIC OFFICE**

Any elected or appointed office or position of the Town of Chester.

#### **PUBLIC OFFICIAL**

Any elected or appointed official of the Town of Chester.

#### **RELATIVE**

A member of an individual's immediate family and also that individual's father, mother, grandfather, grandmother, son, daughter or sibling, whether by blood, adoption or marriage, the latter including, for example, stepparents, stepchildren, half brothers and half sisters.

#### **TOWN**

The Town of Chester.

### **§ 7-5 Standards of conduct (conflicts of interest; restricted activities).**

- A. No public official or public employee shall disclose or use for his or her own benefit or the benefit of others confidential information which he or she has acquired by reason of his or her public position.
- B. No public official or public employee shall receive any benefit from or participate in the selection, award or administration of or vote or participate in the legislative discussion on any contract to which the Town is a party or participate in the selection, award or administration of a contract supported by public funds if a conflict of interest would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:
- (1) The public official or public employee.
  - (2) Any member of his or her family.
  - (3) Any person with whom he or she has a business or other financial relationship.
  - (4) An organization which employs any of the above.
- C. No public official or public employee shall be or become interested directly or indirectly in any manner whatsoever, except by operation of law or in the course of his or her employment by the Town, in any business dealing with the Town of Chester or before on behalf of any of the boards or offices of the Town.
- D. No public official or public employee shall act as agent, broker, employee or consultant for any person, firm, corporation or other entity interested directly or indirectly in any manner whatsoever in any business dealings with the Town of Chester.
- E. No public official or public employee shall engage in any business transaction or private employment or shall have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.
- F. No public official or public employee shall use or attempt to use his position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for himself or herself or any person, firm,

or corporation or other entity with which he or she is associated. He or she shall be deemed "associated" with each person who is a member of his or her family, with each person with whom he or she has a business or other financial relationship and with each firm, corporation or other entity in which he or she has a present or anticipated interest, direct or indirect.

- G. No public official or public employee shall attempt to influence the course of any proposed legislation affecting any private or financial interest not readily apparent of himself or herself, of any of his or her family members, of any person with whom he or she has a business or other financial relationship or of each firm, corporation or other entity in which he or she has a present or anticipated interest, direct or indirect.
- H. Disclosure of interest.
- (1) Every public official and public employee shall publicly disclose any direct or indirect financial or other private interest in any proposed legislation of himself or herself, of any of his or her family members, of any person with whom he or she has a business or other financial relationship or of each firm, corporation or other entity in which he or she has a present or anticipated interest, direct or indirect. A subcontract of a contract with the Town shall be deemed a "direct or indirect financial interest."
- (2) Within 30 days of assuming any office, decisionmaking or consultative position covered by this Code, each person shall advise the Town Clerk, using a form appended hereto as Attachment A,<sup>[1]</sup> of his/her land holdings in the Town of Chester other than property used as the family residence, as well as the employment relationships s/he has had within the last five years. S/he shall also disclose any investments which she has in land or business concerns located or doing business in the Town of Chester. The Town Clerk shall maintain the completed disclosure forms on file during each person's tenure with the Town of Chester and for five years thereafter. This provision shall apply to persons currently serving in positions covered by this Code, provided that employees not serving as department heads and decision-makers shall not have to complete the disclosure form.
- [1] *Editor's Note: Attachment A is included at the end of this chapter.*
- I. No public official or public employee shall become financially interested, subsequent to final action, in any legislation, including ordinances and resolutions, awards, contracts, leases, cases, claims, decisions, decrees or judgments made by him or her in his or her official capacity, during his or her term of office or employment and until two years have elapsed since the expiration of employment or service. This prohibition shall apply so as to prevent a family member or any person, firm, partnership, corporation, business association, trustee or straw party from becoming financially interested for or on behalf of a public official or public employee within said two-year period.
- J. This section shall not be construed to prohibit any public official or public employee from:
- (1) Accepting or receiving any benefit which is provided for or made available to citizens or residents or classes of citizens or residents.
- (2) Being affiliated with, by an investment not exceeding 5% of the equity at fair market value or more than 5% of the assets of the economic interest in indebtedness, employed by or representing a person, firm or corporation or other entity whose business dealings with the Town or any municipal board or commission form an insubstantial part of its total business, provided that he or she has no direct or indirect interest in such business dealings and receives no part of the benefit thereof, takes no part in such business dealings and receives no compensation in connection therewith.
- K. Nothing in this section shall apply to the affiliation of any public official or public employee with any nonprofit or community service organization.
- L. No public official or public employee shall grant, offer or provide any privilege to any person, persons, business or other entity beyond that which is available to every other person, business or other entity, with the exception of any legally determined affirmative action plan or municipally authorized program.
- M. No public official or public employee shall in any manner receive benefit from the profits of any work or service for the Town, or accept any service or thing of value directly or indirectly upon more favorable terms than those granted to the public generally, from any person, firm, corporation or other entity having dealings with the Town. Privileges granted by the Town to public officials are exempted from the terms of this provision.
- N. No public official or public employee shall solicit or receive any compensation, gratuity or other thing of value for any act done in the course of public work other than his normal wage or salary paid by the Town and set as a condition of employment or as provided for in law.
- O. No public official or public employee shall use his or her official influence to assist any person for a fee or other compensation other than the compensation that is provided by law. The performance of usual and customary constituent services without additional compensation does not constitute the use of prestige of office for private gain.
- P. No public official or public employee shall request or permit the use of or use any municipal motor vehicle, equipment, material or property except in the conduct of official municipal business or as provided in the terms of his or her employment.
- Q. No public official or public employee or consultant nor any agency sponsored by the Town shall:
- (1) Discriminate or cause to be created involuntary segregation, directly or indirectly, on the basis of creed, color, national origin, gender, sexual preference or disability or allow any of these factors to affect the recruitment, selection, placement, assignment, compensation, retention, status or promotion of any Town officer, employee, consultant or board member.

- (2) Knowingly or by indifference permit in any manner the use of Town property, equipment or services by any person or persons, organizations or corporations which engage in discrimination on any of the bases set forth above. This subsection shall not apply to organizations which are restricted by age or gender, provided such restrictions have not been found to violate the Constitution of the United States or of the State of New York (including but not limited to senior citizen, golden age, boys and girls scouting organizations).
- R. It shall be unlawful for any elected or appointed official or for any employee to appear on behalf of a third party before any agency of the Town or to represent any private interest in an action or proceeding against the interests of the Town in any litigation to which the Town is a party. This section shall not prohibit such conduct on behalf of the employee or his or her immediate family, although the nature of the relationship shall be disclosed sufficiently in advance of the first appearance before the board or agency of the Town to permit appropriate action before the Board of Ethics should the Town or any other party deem such redress appropriate.

### § 7-6 Voting conflicts.

Where voting conflicts are not otherwise addressed by the Constitution of New York or by any law, rule, regulation, order or ordinance, the following procedure shall be employed:

- A. Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interests shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interests as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken.
- B. The provisions of this section shall not apply to cases where such officer is an employee of the person, firm or corporation involved in a municipal contract or municipal matter in a capacity with no possible influence on the transaction and in which such person cannot possibly be benefitted thereby, either financially or in any other material matter.

### § 7-7 Gifts.

- A. No public official or public employee or family member of a public official or public employee of the Town shall accept a gift, as defined in § 7-4 of this chapter:
- (1) From a person seeking to obtain a contract grant, employment or any financial relationship from the Town.
  - (2) From a person or business having a financial relationship with the Town.
  - (3) From a person or business whose operations or activities are regulated or inspected by the Town.
  - (4) From a principal, agent and/or attorney in proceedings in which the Town is an adverse party.
  - (5) From a person who has an interest that may be substantially affected by the performance or nonperformance of any public official's or public employee's official duties.
- B. Exceptions. The prohibitions imposed by Subsection A shall not apply to the following:
- (1) Acceptance of a gift when circumstances make it clear that the motivation for the gift is due to family relationship, close personal relationship or traditional practices among close friends, such as exchange of birthday and holiday gifts.
  - (2) Acceptance of an award for meritorious achievement from a charitable, religious, professional, recreational, social, fraternal, public service, civic or similar organization.
  - (3) Acceptance of a plaque or memento of nominal value offered as a token of esteem or appreciation on the occasion of a speech or public appearance.
  - (4) Acceptance of small tokens or favors given to everyone attending a function or celebrating an occasion.
  - (5) Acceptance of a legal political contribution made to and reported by a duly registered campaign committee. However, there shall not have been an understanding that the contribution was for the purpose of influencing a vote, action or judgment of the public official or public employee.
  - (6) Acceptance of unsolicited advertising or promotional material such as pens, calendars and other such items of nominal intrinsic value.
  - (7) Acceptance of food and refreshment of nominal value on frequent occasions or the ordinary course of a luncheon, dinner party or meeting.

### § 7-8 Employment restrictions.

- A. No public official or public employee shall engage in, solicit, negotiate for or promise to accept private employment or render his or her services for private interests or conduct a private business when this employment, service or business creates a conflict of interest or impairs the proper discharge of his or her duties.
- B. Secondary employment may be undertaken only when not in conflict with the conditions of employment or regulations promulgated by the Town.
- C. No person who has served as a public official or public employee, whether paid or unpaid, within a period of two years after termination of his or her employment or service, shall appear before any municipal board or commission,

department or public official or employee on behalf of any person, firm, corporation or other entity or receive compensation or remuneration of funds for any services rendered on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application, business dealings or other matter with the Town and municipal board or commission.

- D. No officer or employee of the Town or its departments and agencies shall terminate or otherwise discipline any employee or subordinate for reporting alleged violations of these provisions to the Town Board or Ethics Board or other appropriate governmental body, nor shall such reporting serve as a basis for negatively evaluating the work performance of said subordinate or denying him/her any appropriate term or condition of employment, including promotion, raises or any other term or condition of employment generally available to a person of like qualifications. Once an employee has successfully completed his/her probationary period, she may not be suspended or dismissed without just cause.

### § 7-9 Political activity.

- A. No public official or public employee shall require any public employee to engage in any campaign activities related to the election of any candidate or candidates.
- B. No public official or public employee shall use any public property, material or resources on behalf of any political party, political committee, candidate or candidates or use his or her official authority for the purpose of interfering with an election or affecting the results thereof, except the Town Hall or Senior Center upon consent of the Town Board. It is the intention that all political parties shall have equal access to Town property as approved by the Town Board.
- C. No appointed official or public employee shall engage in any type of partisan political activity while at work or while the employee should be at work.
- D. An appointed official or public employee who desires to undertake any partisan political activity restricted by this section may take a leave of absence from municipal employment without pay, thereby temporarily leaving the municipal payroll.

### § 7-9.1 Nepotism.

[Added 4-11-2012 by L.L. No. 1-2012]

- A. No relative of any Town elected official, Town department head or other Town supervisor shall be permitted to obtain employment with the Town. There shall be four exceptions to this rule:
- (1) In the event the relative is employed by the Town prior to the Town elected official, Town department head or other Town supervisor taking office or position of authority.
  - (2) In the event an individual is employed by the Town prior to said individual becoming a relative of any Town elected official, Town department head or other Town supervisor.
  - (3) In the event an individual is employed by the Town to fill a position that is deemed seasonal or temporary employment.
  - (4) For good cause shown, as determined by the Board of Ethics. "Good cause" shall be found by a showing that the Town would either suffer hardship as a result of the prohibition, there is a lack of qualified applicants to fill the specific job title, or other similar set of circumstances.
- B. Relative defined. Relatives are defined as parent, spouse, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first or second cousin, in-law or step-relative, domestic partner, cohabitant, or a person with whom a significant committed relationship exists.
- C. Policy implementation. Personnel employed prior to the effective date of this section will not be affected by this policy.

### § 7-10 Board of Ethics.

- A. There is hereby created a Board of Ethics, which shall be charged with the administration of this Code of Ethics.
- B. The Board of Ethics shall be composed of five resident electors, and at no time shall more than two members be of the same political party. The Town Board shall appoint all members to the Board of Ethics. Of the five members initially appointed one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year. Thereafter, upon the expiration of the initial term of any member of the Board or in the event that a vacancy exists on said Board, the Town Board shall appoint a new member to fill the vacancy. All subsequent appointments to the Board shall be for terms of two years. In no event may any member of the Board serve on said Board for a period of more than five years in succession. Any member having served for five years in succession shall be ineligible for reappointment to the Board for a period of two years after he last served on the Board of Ethics. Each member shall serve until his successor has been appointed.
- C. The Board shall adopt and promulgate reasonable rules and regulations for the administration of its proceedings. The rules and regulations so promulgated and all amendments thereto shall be made available at the office of the Town Clerk to any elector of the Town.

- D. There is hereby delegated to the Ethics Board as defined herein the responsibility set forth in § 7-11 relating to enforcement procedures. If an allegation or complaint is filed with the Town Board, said Town Board shall send notice to the Ethics Board to conduct an investigation into the allegation or complaint, provided that in the event that said complaint shall involve in some manner the office of the Ethics Board, said matter shall be referred to the Town Attorney for investigation, all in accordance with the procedures outlined herein.

### § 7-11 Enforcement.

- A. Any person who has knowledge of a violation of this Code of Ethics committed by any person subject to the jurisdiction of this chapter may make a signed written report of the same to the Town Board. The fact that a report has been received, the contents of the report and the identity of the person making the report shall remain confidential until such time as the Town Board, after receipt of notice as provided herein, has referred the same to the Ethics Board for an initial threshold determination that probable cause exists to believe that a violation of the Code of Ethics has occurred.
- B. Upon receipt of a report, the Ethics Board, without benefit of subpoenas or sworn testimony, shall make such preliminary investigation as it deems appropriate to determine whether probable cause exists to believe that a violation of the Code of Ethics has occurred. If the Ethics Board is satisfied that probable cause does exist, it may choose between two courses of action as follows:
- (1) Refer the matter to the proper authorities for criminal prosecution, provided that upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the proper authorities may refer the matter back to the Ethics Board proceedings consistent with this chapter.
  - (2) Retain the matter for its own formal investigation with a view toward the ultimate disposition by the Ethics Board in the event that it is determined an actual violation has occurred.
- C. If the Ethics Board should determine probable cause does not exist, it shall communicate its decision, in writing, to the person who made the initial report. The Ethics Board's determination of lack of probable cause shall remain confidential, unless the person who made the initial report chooses to make his or her complaint public. Should this later event occur, all of the Ethics Board's records, files, notes, correspondence and investigative materials relating to the finding of lack of probable cause shall be made open for public inspection.
- D. Should the Ethics Board decide to retain the matter for its own formal investigation pursuant to Subsection B(2) above, the Ethics Board shall notify, in writing, the person who made the report and the person complained against of its decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred. The person complained against may choose whether the hearing shall be open or closed to the public.
- E. Hearings conducted by the Ethics Board.
- (1) Hearings conducted by the Ethics Board shall be informal. The person complained against may be represented by legal counsel and/or by his or her bargaining representative and may present and cross-examine witnesses and give evidence before the Ethics Board. The Ethics Board may call witnesses on its own motion and compel the production of books, records, papers or other evidence needed. To that end, the proper authorities shall issue subpoenas and subpoenas at the request of the Ethics Board or the person complained against. All testimony shall be under oath administered by the Ethics Board. The Ethics Board may adjourn its hearing from time to time in order to allow for the orderly presentation of evidence.
  - (2) Upon motion made by the person complained against or upon its own motion, the Ethics Board may temporarily stay or permanently suspend its investigation when, in its informed discretion, the manifest needs of justice and fairness will be better served thereby.
  - (3) The Ethics Board shall prepare an official record of the hearing, including all testimony, which shall be recorded manually or by mechanical device, and exhibits, provided that the Ethics Board shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.
- F. Within 30 days after the conclusion of the hearing, the Ethics Board shall make and fully record in its permanent records findings of fact, conclusions of law and its determination of a final disposition. A copy of the findings, conclusions and recommended disposition shall be forwarded by registered mail to the person who made the initial report and to the person complained against at addresses as given by both persons to the Ethics Board and shall be filed simultaneously with the Town Clerk.
- G. The Town Board may thereafter accept the recommendation of the Ethics Board or it may reject in whole or in part any portion of the determination and recommendation. The Town Board shall issue its final determination within 45 days of the date of filing with the Town Clerk of the findings and recommendation unless, prior to the expiration of the forty-five-day term, it shall have remanded the matter to the Ethics Board for clarification of any matter deemed by a majority of the Town Board to be ambiguous or inconsistent, in which event the Town Board shall act within 45 days of the filing of the findings and recommendation upon such remand with the Town Clerk. Any person found, by final determination of the Town Board, to be in violation of this Code of Ethics shall be subject to discipline by the Town Board.
- H. Any person subject to discipline, reprimand or censure may seek review of the final determination to the Supreme Court of the State of New York in Orange County, provided such proceeding is commenced within 30 days of the date of service of the final determination upon such person.

### § 7-12 Violations and penalties.

- A. Any elected official, appointed official or public employee who violates the code shall be subject to the following disciplinary action:
- (1) Private formal reprimand;
  - (2) Written reprimand or censure;
  - (3) Suspension without pay for up to five days;
  - (4) Termination or dismissal; and
  - (5) Such other penalties authorized by collective bargaining agreements or statutes.
- B. Upon dismissal, and when warranted, appropriate information will be forwarded by the Town to the appropriate local, state or federal authorities for further action.
- C. Any disciplinary action taken by the Town shall be conducted in accordance with the procedures defined in Civil Service Law § 75 unless provisions of a binding labor agreement shall be applicable. In either event, it is the intention of the chapter that any action shall require either the consent of the individual subject to discipline or following a hearing which comports with applicable notions for procedural due process of law.
- D. In addition, any public official or public employee who violates the code shall be subject to a fine not exceeding \$500 for a first violation and not exceeding \$1,000 for each additional violation and, in default thereof, imprisonment not exceeding 72 hours.
- E. When appropriate, the Town may take the necessary legal steps pursuant to a breach of contract with a third party, agent, subrecipient, contractor or consultant. Such steps may include, but not be limited to:
- (1) Termination of the agreement with no further transfer of funds.
  - (2) Recovery of appropriate liquidated damages.
- F. Any person, corporation, company or other entity found to have benefitted as a result of a violation of this code shall be debarred from participating in business dealings with the Town for up to 10 years.
- G. A public official, appointed official or public employee of a political subdivision who acts in good faith reliance on a written, nonconfidential opinion of the Attorney General or Comptroller of the State of New York or of the Town Attorney, which opinion or advice shall have been publicly stated at an open meeting of a Town Board and recorded in the minutes of the meeting, shall not be subject to the penalties provided for in Subsection A, B, C, D, F or G of this section. Solicitor's opinion has been rendered under duress or where the parties seeking and rendering the Solicitor's opinion have colluded to purposely commit a violation of this chapter.



## **LOCAL LAW NO. 3 OF 2022**

### **A LOCAL LAW TO UPDATE AND AMEND CHAPTER 7 AND CHAPTER 66 OF THE TOWN CODE OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

#### **Section 1. Purpose and Intent**

It is the intent and purpose of this Local Law to update and amend Chapter 7, entitled "Ethics, Code of," of the Town Code of the Town of Chester to provide further requirements for the Ethics Board; and to update and amend Chapter 66, entitled "Noise Pollution Control," of the Town Code of the Town of Chester to provide further information and penalties with respect violations.

#### **Section 2. Amend Chapter 7, Section 7-10, entitled, "Board of Ethics", to add the following:**

- E. The Board of Ethics shall meet quarterly, at least once every three months, to discuss any potential improvements that could be made to the Board and any proactive steps that should be taken with respect to administration of the Board. The Board shall then report any such potential improvements and/or proactive steps to the Town Board. The Town Board shall take report under advisement with respect to potential amendments to the Town Code and Town procedures affected thereby.

#### **Section 3. Amend Chapter 66, Section 66-8, entitled "Penalties for Offenses", to read as follows:**

- D. Penalties and Repeat Convictions. Any person convicted of a violation of this Chapter shall, for a first conviction thereof, be punished by a fine of not less than \$50, but no more than \$250. For a second such conviction within six months thereafter, such person shall be punished by a fine of not less than \$150, but no more than \$350. For a third or subsequent conviction within six months after the first conviction, such person shall be punished by a fine of not less than \$250, but no more than \$350 for each such conviction. If a person served with an initial notice of violation fails to correct the violation within thirty minutes after receiving said notice, then such failure shall be deemed a separate and distinct violation and the individual may be issued additional notices of violation.

**Section 5. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 6. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.