

Village of West Hampton Dunes

Chapter 63

Code of Ethics

§ 63-1. Title.

This chapter shall be known as the “Code of Ethics of the Village of West Hampton Dunes.”

- A. The Board of Trustees of the Village of West Hampton Dunes recognizes that it must establish high standards of ethical conduct for officers, elected and appointed board, commission and committee members and employees of the Village so as to promote public confidence in the integrity of local government. Officers and employees of the Village of West Hampton Dunes 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 Village of West Hampton Dunes recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics of the Village of West Hampton Dunes establishes those standards.
- B. This Code of Ethics is enacted pursuant to § 806 of the General Municipal Law and § 10 of the Municipal Home Rule Law. Officers and employees of the Village of West Hampton Dunes must comply with the provisions of the Code of Ethics, as well as the conflict of interest standards prescribed by Article 18 of the General Municipal Law. This Code of Ethics is in addition to the standards contained in Article 18 and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.

§ 63-2. Definitions.

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

- A. “Board” means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.
- B. “Code” means this code of ethics.
- C. “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, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or

indirectly owns or controls more than 5% of the organization's outstanding stock.

- D. "Municipality" means the Village of West Hampton Dunes. The word "municipal" refers to the municipality.
- E. "Municipal officer or employee" means a paid or unpaid officer or employee of the Village of West Hampton Dunes, including, but not limited to, elected officers, members of any of the municipality's governing board, any of its administrative boards (e.g., Planning Board, Zoning Board of Appeals, Board of Trustees, Board of Ethics), commissions, committees, agencies, department heads and others who work in a similar capacity.
- F. "Relative" means a spouse, domestic partner, parent, step-parent, sibling (including half 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 officer or employee.

§ 63-3. Standards of Conduct.

A. Every municipal officer or employee must endeavor to pursue a course of conduct consistent with the declaration of policy and other provisions of this chapter and strive to act so as not to raise reasonable suspicion among the public that the municipal officer or employee may or is likely to be engaged in conduct that is in violation of the public's confidence and trust. The specific prohibitions set forth herein are not necessarily an exclusive list of provisions regarding the ethical conduct of municipal officers or employees.

A municipal officer or employee must not use the municipal officer or employee's official position or office, or take or fail to take any discretionary action, in a manner which the municipal officer or employee knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

- A. Any municipal officer or employee;
- B. Any municipal officer's or employee's employer (other than the Village);
- C. A municipal officer's or employees's relative;
- D. Any person or business entity that is a customer or client of the municipal officer or employee; or
- E. Any business entity in which the municipal officer or employee or a relative of the municipal officer or employee has a financial or pecuniary interest or serves as an employee, officer, or director, whether compensated or not compensated, or of which the municipal officer or employee or the municipal officer or employee's relative own 5% or greater of the outstanding stock or has authority to decide upon dispensing grants or other monetary benefits.

B. A municipal officer or employee with the authority, either individually or as a member of a board, commission, or other village agency, to conduct inspections or issue permits or other Village approvals is not permitted to:

A. Engage in a business activity or have a financial interest in any business entity that conducts such inspections or applies for or assists in applications for such Municipality permits as a regular and significant part of its business; or

B. Conduct any inspection or issue any permit with respect to an application in which the municipal officer or employee's outside employer or business has been involved.

§ 63-4. Prohibition on use of municipal position for personal or private gain.

A. 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.

B. This Section 63-4 shall not prohibit a municipal officer or employee from:

- a. Voting to approve the municipality's annual budget;
- b. Receiving lawful compensation for services as a municipal officer or employee;
- c. Receiving payment or reimbursement for actual and necessary expenses reasonably incurred in the performance of official duty;
- d. Receiving payments under a lawful municipal contract;
- e. Using municipal personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law; or
- f. Performing a ministerial function that does not require the exercise of discretion.

§ 63-5. Treatment of public.

All municipal officers and employees shall treat all members of the public, whether a person, firm or corporation, or other organization without special advantage in carrying out his or her official duties.

§ 63-6. 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 disclose in writing the nature of the interest.

- B. The disclosure 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.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the Board of Trustees. 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, employee or board having the power to appoint to the person's position.
 - a. In the event that a person is serving as a member of any municipal Board, then a copy of such disclosure shall be filed with the Board. Any disclosure made to any Board shall be made publicly available at a meeting of the Board and must be included in the minutes of the meeting.

§ 63-7. Investments in conflict with official duties.

- A. No municipal officer or employee may acquire the following investments:
 - a. Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 63-10 of this code; or
 - b. Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring or disposing of any other investments such as the following assets:
 - a. Real property located within the municipality that is a residence for the municipal officer or employee;
 - b. Less than five percent of the stock of a publicly traded corporation;
 - c. Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 63-8. Private Employment in conflict with official duties.

- A. No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:
 - a. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 63-10 of this code;
 - b. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;

- c. Violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- d. 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.

§ 63-9. 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 the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within one year following final disposition of the matter.
- 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 serves.
- 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.
- D. This section does not prohibit a municipal officer or employee from:
 - a. Representing him or herself, or his or her spouse or minor children, before the Village of West Hampton Dunes, or any officer, administrative board, commission or other agency of the municipality, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity;
 - b. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity.
 - c. Appearing before the Village of West Hampton Dunes Justice Courts on behalf of private citizens.

§ 63-10. 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 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, or any private organization in which he or she is deemed to have an interest.

- B. In the event that this section 63-10 prohibits a municipal officer or employee from exercising or performing a power or duty:
- a. 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; or
 - b. If the power or duty that 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 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.
 - c. If the power or duty is vested in a municipal employee, he or she must 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.
- C. This code's prohibition on use of a municipal position (§ 63-3), disclosure requirements (§ 63-6), and requirements relating to recusal and abstention (§ 63-10), shall not apply with respect to the following matters:
- a. adoption of the municipality's annual budget;
 - b. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - i. all municipal officers or employees;
 - ii. all residents or taxpayers of the municipality or an area of the municipality;
or
 - iii. the general public; or
 - iv. any matter that does not require the exercise of discretion.
- D. Recusal and abstention shall not be required with respect to any matter:
- a. Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § 63-10 of this code;
 - b. Which comes before a municipal officer when the officer would be prohibited from acting by § 63-10 of this code and the matter cannot be lawfully delegated to another person.

§ 63-11. Interests in contracts.

- A. No municipal officer or employee may have an interest in a contract that is prohibited by

§ 801 of the General Municipal Law.

- B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.

§ 63-12. Use of municipal resources.

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.
- B. 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:
 - a. Any use of municipal resources authorized by law or municipal policy;
 - b. 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
 - c. 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.
- C. 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.

§ 63-13. Nepotism.

- A. 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.
- B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 63-14. Political solicitations.

- A. No municipal officer or employee shall directly or indirectly 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 engage in political campaign activities during their official workday.
- D. No municipal officer or employee shall use municipal resources for any political campaign or political activity.
- E. No municipal officer or employee shall hold any office or serve as a committee person in a political party or political organization.

§ 63-15. 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.

§ 63-16. Gifts.

- A. No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.
- 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, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:
 - a. The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
 - b. The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - c. The gift is intended as a reward for any official action on the part of the officer or employee.
- D. 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. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a

single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

E. Presumption.

- a. A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when 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 officer or employee.
- b. A gift to a municipal officer or employee is presumed to be intended as a reward for official action when 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 officer or employee during the preceding twelve months.

F. This section does not prohibit any other gift, including:

- a. Gifts made to the municipality;
- b. Gifts from a person with a family or personal relationship with the 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;
- c. Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
- d. Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
- e. 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
- f. 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.

§ 63-17. Annual financial disclosure.

- A. Within thirty days after taking office, or announcing candidacy for office, and no later than July 15 of each year thereafter, all municipal officers and employees shall file with the Village Clerk a financial disclosure statement: provided, however that all Village constables, other than those in a supervisory position are not required to file such financial disclosure statements.

- B. The financial disclosure statement will be in the form approved, from time to time, by the Board of Ethics.
- C. Notwithstanding §63-17 A above, within 30 days of a material change in the information provided in the annual financial disclosure statement or an acquisition or disposition of rental property in the Village, the municipal officer or employee will amend such annual financial disclosure statement to reflect such information. Amendments to annual disclosure statements will be noticed concurrently to the Board of Ethics for a §63-7 A review.

§ 63-18. Board of Ethics.

- A. 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 Board of Trustees, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the board of ethics.
- B. Qualification of Board members.
 - a. All members of the Board of Ethics must be a homeowner of the municipality.
 - b. The members of the Board of Ethics should be qualified by temperament and experience to carry out the duties and responsibilities of the Board.
 - c. No member of the Board of Ethics shall be a committee person or hold office in a partisan political organization or hold elective office in the Village of West Hampton Dunes. A Board member may make campaign contributions and vote, but not otherwise participate in any Village of West Hampton Dunes election campaign.
 - d. Not more than three members of the Board of Ethics may be members of the same political party.
 - e. No officer or employee of the Village of West Hampton Dunes is eligible to serve on the Board of Ethics.
- C. Powers and duties of the Board of Ethics.
 - a. The Board of Ethics shall select its own Chairperson from within the Board for a one-year term and appoint such staff as necessary to carry out its duties under this chapter and to delegate authority to the Chairperson, if any, to act in the name of Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board may not delegate the power to conduct hearings, determine violations,

recommend disciplinary action, impose civil fines, refer any matter to a prosecutor or render advisory opinions.

- b. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner not inconsistent with this section or state or federal law.
- c. To review lists of municipal officials and disclosure statements pursuant to § 63-17 of the West Hampton Dunes Code of Ethics.
- d. To conduct investigations pursuant to § 63-19 of the West Hampton Dunes Code of Ethics.
- e. To conduct hearings, recommend disciplinary action and initiate appropriate actions and proceeding pursuant to §§ 63-19 and 63-20 of the West Hampton Dunes Code of Ethics.
- f. To issue advisory opinions pursuant to § 63-21 of the West Hampton Dunes Code of Ethics.
- g. To provide ethics training and education to Village officers and employees on the provisions of the West Hampton Dunes Code of Ethics and Article 18 of the General Municipal Law.
- h. The Ethics Board of the Village of West Hampton Dunes may act only with respect to officers and employees of the municipality and persons having business dealing with the municipality. The termination of a Village officer's or employee's term of office or employment with the Village shall not affect the jurisdiction of the Village Ethics Board with respect to requirements imposed by this chapter on current and former Village officers or employees to the extent permitted by law.
- i. The Village Ethics Board may refer any matter within its jurisdiction to the County Ethics Board in its discretion.
- j. A member of the Board of Ethics may be removed from office by a minimum of four votes of the Village Board for failure to fulfill the duties of the office or for violation of this chapter. The Village Board must give the Board member written notice and an opportunity to reply.
- k. The Ethics Board must prepare an annual report to the Village Board on its activities and recommend changes to the Village Ethics Law.

§ 63-19. Complaints and investigations.

- A. Upon receipt of a form duly sworn by the person requesting an investigation of an alleged violation of this chapter or upon the Board determining on its own initiative that a violation

of this chapter may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this section. In conducting any such investigation, the Board 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 in requesting an investigation of an alleged violation of this chapter shall be the form available in the office of the Village Clerk.

- B. The Village Ethics Board investigation shall be confidential until such time that a final determination of the Village Ethics Board has been made. Thereafter the Village Ethics Board shall state, in writing, its disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition to the Village Board. Any findings of violations of this chapter or other applicable law shall be served upon the subject of the investigation within seven days of any such findings of violations and such violations shall be made a public record and shall be indexed and maintained on file by the Village Clerk.

§ 63-20. Enforcement.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

§ 63-21. Confidential ethics advisory opinions.

- A. The Board of Ethics shall render confidential advisory opinions only to officers and employees of the Village of West Hampton Dunes with respect to Article 18 of the General Municipal Law and this Code of Ethics.
- B. If a municipal officer or employee is in doubt regarding any particular conduct or issue, the municipal officer or employee may request guidance from the Ethics Board who shall, in their discretion, prepare an advisory opinion, based on a thorough review of the facts and applicable law.
- C. The Board's opinion is to be based solely on the facts presented in the request or subsequently submitted in a written signed document. The opinion will be rendered in writing to the requester as expeditiously as is practicable, with special attention to the time requirements of a given case.
- D. An officer or employee of the municipality whose conduct or action is the subject of an advisory opinion will not be subject to penalties or sanctions by virtue of acting, or failing to act, due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the material submitted by the requester.
- E. The Board of Ethics will maintain a confidential indexed file of all advisory opinions issued by the Board.

§ 63-22. Posting and distribution.

- A. The Village Clerk must 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 must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.
- B. The Village Clerk must promptly cause a copy of this code, including any amendments to this code to be distributed to every person who is or becomes an officer or employee of the Village of West Hampton Dunes.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Village Clerk who must maintain such acknowledgments as a public record.
- D. The failure to post this Code of Ethics or an amendment to the code does not affect either the applicability or enforceability of the code or amendment. The failure of a municipal officer or employee to receive a copy of the Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability of enforceability of the code or of the amendment to the code.

§ 63-23. Biennial ethics training.

- A. All officers and employees of the Village of West Hampton Dunes and members of the Village of West Hampton Dunes Board of Ethics must complete an ethics training seminar on a biennial basis. Ethics training will be provided at the direction of the Village Board, in conjunction with the Board of Ethics.
- B. Ethics training shall be provided by qualified professionals proficient in municipal ethics and will be designed to keep recipients knowledgeable of current standards and issues in municipal ethics.
- C. The training seminar will be made available each year.
- D. Scheduling and records documenting compliance with this section will be performed and maintained by the Village Clerk.

§ 63-24. Effective date.

This code takes effect on .

