

CHAPTER 11

LOCAL LAW NO. 1 OF 2010

A LOCAL LAW ENTITLED
ETHICS

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF SHOREHAM AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to enact an updated version of a Code of Ethics which was last addressed by adoption of a resolution in 1979. This local law incorporates additional provisions of Article 18, New York General Municipal Law, including by way of illustration provisions on conflicts of interest of municipal officers and employees, recusals and employment of relatives.

SECTION 2. ENACTMENT OF VILLAGE CODE OF ETHICS.

The Village of Shoreham Code of Ethics is enacted as follows:

§ 1. Definitions.

When used in this chapter and unless otherwise expressly stated or unless the context otherwise requires, the following terms shall have the meanings indicated:

CONTRACT Any claim, account or demand against or agreement with the Village of Shoreham, express or implied, including the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law.

INTEREST A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as a result of a contract with the Village of Shoreham. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

A. His spouse, minor children and dependents;

- B. A firm, partnership or association of which such officer or employee is a member or employee;
- C. A corporation of which such officer or employee is an officer, director or employee; and
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE An officer or employee of the Village of Shoreham, whether paid or unpaid, including members of any administrative board, commission or other agency thereof.

§ 2. Standards of conduct.

Every officer or employee of the Village of Shoreham shall be subject to and abide by the following standards of conduct:

- A. Misuse of position. He shall not use or attempt to use his position as a public servant to obtain any financial gain, contract, license, privilege or personal advantage, direct or indirect, for himself or any person, firm or corporation associated with him.
- B. Gifts. He shall not, directly or indirectly, solicit or accept any gift having a monetary value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.
- C. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- D. Representation before one's own agency. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.

E. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

F. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Shoreham, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees 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.

G. 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. This shall not be construed to apply when he has recused himself from involvement in the matter before the Village which creates a conflict with his official duties.

H. 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. This shall not be construed to apply when he has recused himself from involvement in a matter before the Village which creates a conflict with or impairs the proper discharge of his official duties.

I. Future employment. He shall not, for a period of one (1) year after the termination of service or employment with the Village, appear before any board or agency of the Village or act as counsel or as an agent 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 act or consideration.

J. Employment of relatives. No officer of the Village shall participate in any manner in any process of employment, termination of employment, supervision of employment or employee discipline where the employee is in any manner related to the officer by blood, consanguinity or marriage.

K. Recusal. He shall recuse himself whenever necessary to comply with this Code of Ethics.

§ 3. **Prohibited interests in contracts.**

A. Except as provided in Subsection C below:

(1) No municipal officer or employee shall have an interest in any contract with the Village of Shoreham when such officer or employee, individually or as a member of a board, has the power or duty to:

(a) Negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;

(b) Audit bills or claims under the contract; or

(c) Appoint an officer or employee who has any of the powers or duties set forth above.

(2) No Village Treasurer or his deputy or employee shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the Village of Shoreham.

B. The provisions of Subsection A above shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

C. The provisions of Subsection A above shall not apply to:

(1) The designation of a bank or trust company as a depository, paying agent, registration agent or for investment of funds of the Village of Shoreham except when the Village Treasurer, or his deputy or employee, has an interest in such bank or trust company; provided, however, that where designation of a bank or trust company outside the Village would be required because of the foregoing restriction, a bank or trust company within the Village may nevertheless be so designated;

(2) A contract with a person, firm, corporation or association in which a Village officer or employee has an interest which is prohibited solely by reason of employment as an officer or employee thereof, if the remuneration of such employment will not be directly affected as a result of such contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of such contract;

(3) The designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law;

(4) The purchase by the Village of real property or an interest therein, provided the purchase and the consideration therefor is approved by order of the Supreme Court upon petition of the Board of Trustees;

(5) The acquisition of real property or an interest therein, through condemnation proceedings according to law;

(6) A contract with a membership corporation or other voluntary nonprofit corporation or association;

(7) The sale of bonds and notes pursuant to § 60.10 of the Local Finance Law;

(8) A contract in which a Village officer or employee has an interest, if such contract was entered into prior to the time he was elected or appointed as an officer or employee, but this subsection shall in no event authorize a renewal of any such contract;

(9) A contract with a corporation in which a Village officer or employee has an interest by reason of stockholdings when less than 5% of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee;

(10) A contract for the furnishing of public utility services when the rates or charges therefor are fixed or regulated by the Public Service Commission;

(11) A contract for the payment of a reasonable rental of a room or rooms owned or leased by an officer or employee when the same are used in the performance of his official duties and are so designated as an office or chamber;

(12) A contract for the payment of a portion of the compensation of a private employee of an officer when such employee performs part time service in the official duties of office;

(13) A contract in which a Village officer or employee has an interest if the total consideration payable thereunder, when added to the aggregate amount of all consideration payable under contracts in which such person had an interest during the fiscal year, does not exceed the sum of \$750;

(14) A contract with a member of a private industry council established in accordance with the Federal Job Training Partnership Act or any firm, corporation or association in which such member holds an interest, provided the member discloses such interest to the council and the member does not vote on the contract.

§ 4. Disclosure of interests in contracts.

A. Any municipal officer or employee who has, will have or later acquires an interest in any actual or proposed contract with the Village of Shoreham shall publicly disclose the nature and extent of such interest in writing to his immediate supervisor and to the Board of Trustees as soon as he has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of said Board.

B. Notwithstanding the provisions of Subsection A above, disclosure shall not be required in the case of an interest in a contract described in Subsection C (9) through (14) of § 2 above.

§ 5. Board of Ethics.

A. There is hereby created and established a Board of Ethics consisting of three (3) persons appointed by the Mayor with the approval of the Board of Trustees none of whom shall be an officer or employee of the Village and each of whom shall serve without compensation for a term of one year, in all events expiring on the day of the annual organizational meeting and subject to reappointment upon expiration of any such appointment. The Chair of such Board shall be named by the members of the Board. Any provision foregoing to the contrary notwithstanding, the initial appointments to this Board shall be as follows: one (1) member shall be appointed for one (1) year, one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years, it being intended that any successor appointments shall each be for one (1) year.

B. The Board of Ethics shall render advisory opinions to officers or employees of the Village of Shoreham with respect to this Code of Ethics and the provisions of Article 18 of the General Municipal Law. Such advisory opinions shall be rendered pursuant to the procedures set forth in Subsection C below, under such rules and regulations as the Board may prescribe, and said Board shall have the advice of the Village Attorney.

C. Procedures relating to requests for and issuance of advisory opinions.

(1) All requests for advisory opinions shall be in writing, shall identify all pertinent facts and circumstances, shall be directed to the Chairperson of the Board of Ethics, and shall only be opened by the Chairperson of the Board of Ethics.

(2) Upon receipt of a written request for an advisory opinion, the Chairperson of the Board of Ethics shall promptly convene a meeting of the Board to review such request and to discuss the procedures applicable to such request.

(3) The Chairperson of the Board may appoint members of the Board to conduct fact finding and background research, which may include interviewing the requester, the officer or employee who is the subject of the request for an advisory opinion, appropriate supervisory personnel and other affected parties, gathering applicable policies, procedures, legal and contractual information, reviewing past advisory opinions and obtaining legal advice.

(4) If the officer or employee who is the subject of a request for an advisory opinion (to wit, the officer or employee whose conduct or prospective conduct is involved in a request for an advisory opinion) is not the person who requests the advisory opinion, the following procedures shall be applicable thereto:

(a) Prior to conducting any fact finding, the Board shall send a copy of the request for an advisory opinion, in a form which blocks out or deletes the name (identity) of the requester, to the officer or employee who is the subject of the request (such officer or employee being hereinafter referred to as the subject of the request), together with written notice providing the subject of the request with a reasonable period of time (the specific amount of time to be specified by the Board in such notice) within which to submit a written response to the Board.

(b) Prior to rendering an advisory opinion, the Board shall send to the subject of the request written notice containing a statement of the facts and circumstances upon which an advisory opinion will be based and providing the subject of the request with a reasonable period of time (the specific amount of time to be specified by the Board in such notice) within which to submit a written response to the Board.

(5) During an inquiry, the members of the Board may not be contacted by any officer or employee of the Village. The Board will initiate all interviews. Comments from interested parties must be in writing to the Board.

(6) To protect the confidentiality of all involved, no member of the Board of Ethics may discuss any matter of its inquiry (outside of the Board of Ethics) with any person.

(7) The Board shall determine whether the subject of a request for an advisory opinion is within the jurisdiction of the Board. If the Board determines that the subject of the request is not within the jurisdiction of the Board, the Chairperson shall so notify the requester in writing.

(8) The Board shall determine whether it has sufficient information to render an advisory opinion. If the Board determines that it does not have sufficient information to render an advisory opinion, the Chairperson of the Board shall so notify the requester in writing.

(9) The Board shall determine in its sole discretion whether it will or will not render an advisory opinion. If the Board determines that it will not render an advisory opinion, the Chairperson of the Board shall so notify the requester in writing. In determining whether it will or will not render an advisory opinion, the Board may consider, in addition to specific factors related to a request, the following general factors: whether an advisory opinion would assist the requester and guide future conduct; whether the issue is one of general application to others who are subject to the Code of Ethics.

(10) Every advisory opinion shall be labeled "Advisory Opinion" and shall contain the following statement:

"The primary purpose of the Board of Ethics is to render advisory opinions upon request. The opinions are unenforceable by the Board of Ethics but are meant to enrich the knowledge of any person with questions relating to the Code of Ethics of the Village of Shoreham."

(11) Every advisory opinion shall be authorized and approved by resolution of the Board. The Board shall keep minutes of such resolution showing the vote of each member on such resolution. Every advisory opinion shall be signed by the Chairperson of the Board on behalf of the Board.

(12) If the officer or employee who is the subject of an advisory opinion is the person who requested such opinion, the advisory opinion shall be issued to the officer or employee who is the subject of such opinion, and a copy of the advisory opinion shall be maintained in the files of the Board.

(13) If the officer or employee who is the subject of an advisory opinion is not the person who requested such opinion, the advisory opinion shall be issued to the officer or employee who is the subject of such opinion, and a copy of the advisory opinion shall be maintained in the files of the Board. Upon issuing such opinion, the Board of Ethics shall send written

notice to the requester (the person who requested the opinion) that the Board of Ethics has issued an advisory opinion and has filed a copy thereof, but the Board of Ethics shall not send a copy of the advisory opinion to the requester.

(14) No meeting or proceeding of the Board of Ethics relating to requests for and issuance of advisory opinions shall be open to the public, except upon the request of the officer or employee who is the subject thereof or as otherwise required by Article 7 of the Public Officers Law or some other state or federal law. It is the intent of this provision that all meetings and proceedings of the Board of Ethics relating to requests for and issuance of advisory opinions shall be closed to the public to the fullest extent allowed by law.

(15) No record of the Board of Ethics relating to requests for and issuance of advisory opinions (including but not limited to requests for advisory opinions and advisory opinions) shall be available for public inspection, except as otherwise required by Article 6 of the Public Officers Law or some other state or federal law. It is the intent of this provision that, to the fullest extent allowed by law, all records of the Board of Ethics relating to requests for and issuance of advisory opinions (including but not limited to requests for advisory opinions and advisory opinions) shall not be available for public inspection and shall not be publicly disclosed by the Board of Ethics.

(16) Except as otherwise expressly required by a procedure set forth in this Subsection C, all records of the Board of Ethics relating to requests for and issuance of advisory opinions (including but not limited to requests for advisory opinions and advisory opinions) shall be held in confidence by the Board of Ethics and shall not be disclosed by any member of the Board of Ethics to any person.

(17) The Board of Ethics may in its discretion publicly disclose its advisory opinions in a form which deletes identifying details (to wit, the name/identity of the officer or employee who is the subject of the advisory opinion and other identifying details).

(18) Pursuant to Subsection B above, the Board of Ethics may prescribe rules and regulations relating to requests for and issuance of advisory opinions. Such rules and regulations shall not be inconsistent with the provisions of this Subsection C.

§ 6. **Filing of claims for personal injury or property damage.**

Nothing in this division shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Village or any agency of the Village on behalf of himself or any member of his family arising from any personal injury or property damage or for any loss or benefit authorized or permitted by law.

§ 7. **Penalties for offenses.**

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

SECTION 3. SEQRA.

This is a Type II action under 6 NYCRR §§ 617.S(c)(20) and (27).

SECTION 4. EFFECTIVE DATE.

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

SECTION 5. REPLACEMENT OF EXISTING CODE OF ETHICS.

This local law upon its effective date shall in all respects supersede any Code of Ethics heretofore adopted by resolution of the Board of Trustees in 1979.

SECTION 6. DISTRIBUTION.

This local law shall upon its enactment be distributed by the Village Clerk to all officers and employees of the Village and shall be similarly distributed upon the later appointment or hiring of an officer or employee of the Village.

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Be it enacted this 13th day of July, 2010 by the Board of Trustees of the Village of Shoreham, 80 Woodville Road, Shoreham, N.Y. 11786, Suffolk County, New York, to be effective immediately.

__William Klatsky_____
__Rodger J Pijacki_____
__Carol L. Willen_____
__Joseph P. Falco_____
__Edward Weiss_____

[signatures on file]

SEAL

ATTEST____ Colleen Piscak [signature on file]__CLERK
Colleen Piscak