

TOWN OF BROOKHAVEN POLICY STATEMENTS

- Drug-Free and Alcohol-Free Work Place Policy (January 2005)
- Prohibition of Unlawful Harassment (April 2018)
- Smoking Policy 2002 Resolution and Amendment (May 2007)
- Power of Attorney Resolution #13 (1994)
- Acceptable Use Policy-Information Security Policy (December 2018)
- Chapter 28 Code of Ethics and Disclosure (2005) (With Whistleblower Protection Act)
- General Municipal Law Article 18
- Dress Guidelines (applicable to Part Time and Seasonal Staff)
- Driver's License Validation
- Attendance Procedure (applicable to Part Time and Seasonal Staff)
- Reporting Work Related Injuries (applicable to Part Time and Seasonal Staff)
- Family Medical Leave Act Policy (February 2020)
- Workplace Violence Policy and Amendments of February 2013, August 2013, April 2016 & March 2018
- Violence Against Women Act (2013)
- Prohibition of Political Activity on Town Time and Premises/Time Sheet Responsibility (January 2013)
- Employee Safety Handbook (March 2010)
- Continuing Education Policy (January 2017)
- Title VI Plan (Town of Brookhaven's Non-Discrimination Policy) (August 2018)
- Adoption of TOB Timekeeping Policy & Standard Procedures (January 2018)
- Vehicle Reform Policy (July 2008)
- Sexual Harassment Prevention Policy (October 2018)
- Cancer Screening Resolution (March 2018)

I do hereby attest that I have been advised that the Town of Brookhaven Policy Statements listed above are available through the Town of Brookhaven's website, www.brookhavenny.gov, on the Personnel Page, as well as on the Town of Brookhaven's Shared Drive (Q:). I also have been made aware that it is my responsibility to check these documents periodically for any updates or amendments.

If I do not have internet access to the Town of Brookhaven's website or Shared Drive, I can request a copy of these documents from the Personnel Division. If after reading these documents, I have any questions, I can contact the Personnel Division at 451-6633.

Date

Employee Signature

Print Employee Name

Acknowledged by: _____
Division of Personnel

Date

RECEIVED
DIV. OF PERSONNEL
TOWN OF BROOKHAVEN
005 JRN 7 07 10 05

RESOLUTION NO. 25
MEETING OF: JANUARY 4, 2005

ADOPTION OF TOWN OF BROOKHAVEN
DRUG FREE AND ALCOHOL FREE WORK
PLACE POLICY

WHEREAS, during 1988 Congress passed the Anti-Drug Abuse Act. A portion of this new law contains a section known as the Drug Free Workplace act; and

WHEREAS, the Drug Free Workplace Act requires that any employer who applies for and/or receives federal grant money must certify that it will institute and maintain certain employee workplace regulations concerning controlled substances; and

WHEREAS, since the Town continually applies for, and receives, federal grant money, the Town of Brookhaven must comply with this legislative mandate; and

WHEREAS, the Town has a policy strictly prohibiting the possession and use of alcoholic beverages on Town premises and/or during working hours;

NOW, THEREFORE, BE IT RESOLVED that the following policy is established by the Town effective immediately:

No employee is permitted to purchase, possess, drink or consume any alcoholic beverage or controlled substance or be under the influence of an alcoholic beverage or controlled substance while on Town time, in a Town vehicle or on Town property. Any violation of this policy shall be grounds for disciplinary action.

The unlawful manufacture, distribution, dispensing, attempt to sell or purchase, possession or use of a controlled substance or alcoholic beverage is prohibited in the workplace, on Town time or in a Town vehicle, and any employee who unlawfully manufactures, distributes, dispenses, attempts to sell or purchase, possesses or uses a

controlled substance or alcoholic beverage shall be subject to disciplinary action, including such penalties as a reprimand, a fine not to exceed one hundred dollars to be deducted from the salary or wages of such officer or employee, suspension without pay for a period not exceeding two months, demotion in grade and title, dismissal from service, referral and participation in a drug and/or alcohol abuse assistance or rehabilitation program.

All employees, as a condition of employment pursuant to the Anti-Drug Abuse Act ~~Act~~ of 1988, Drug Free Workplace Act, and pursuant to the Town Drug Free and Alcohol Free Workplace Policy, shall abide by the above terms and shall notify the Town of Brookhaven any criminal drug statute or alcohol related conviction for a violation occurring in the workplace, in a Town vehicle, or on Town time no later than five days after such conviction.

RECEIVED
TOWN OF BROOKHAVEN
2005 JUN 7 10 10 AM

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2018-0325
MEETING: APRIL 12, 2018

AMENDMENT TO THE TOWN OF
BROOKHAVEN'S PROHIBITION OF
UNLAWFUL HARASSMENT POLICY
TO INCLUDE OTHER TYPES OF
PROHIBITED HARASSMENT

WHEREAS, at the January 6, 2003 Town Board Meeting, the Town Board of the Town of Brookhaven adopted a policy entitled "Prohibition of Unlawful Harassment"; and

WHEREAS, pursuant to Town Board Resolution No. 17, dated September 6, 2005, the Town Board of the Town of Brookhaven amended the "Prohibition of Unlawful Harassment Policy" to have employees bring their complaints to the Town Attorney or his/her designee; and

WHEREAS, the Town of Brookhaven is now desirous of amending the last known "Prohibition of Unlawful Harassment" Policy dated December 14, 2009, to include other types of prohibited harassment in the first and second paragraphs, as set forth below, and attached hereto in bold:

"... creed, disability, sexual orientation, national origin, military status, familial status, domestic victim status and predisposing genetic characteristics."

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the "Prohibition of Unlawful Harassment" Policy is hereby amended to include other types of prohibited harassment in the first and second paragraphs, as set forth below, and attached hereto in bold:

"... creed, disability, sexual orientation, national origin, military status, familial status, domestic victim status and predisposing genetic characteristics."

; and be it further

RESOLVED, that every employee within the Town of Brookhaven shall receive a copy of the amended Town of Brookhaven "Prohibition of Unlawful Harassment" Policy, a copy of which is available on the Town Shared Drive as well as from the Division of Personnel and the Town Safety Officer; and be it further

RESOLVED, that all other provisions of the Town of Brookhaven's "Prohibition of Unlawful Harassment" Policy dated December 14, 2009 shall remain the same and shall be in full force and effect.

PROHIBITION OF UNLAWFUL HARASSMENT

As part of the Town of Brookhaven's continuing effort to ensure equal employment opportunity based solely on an individual's abilities and qualifications, and consistent with the guidelines issued by the Equal Employment Opportunity Commissioner, the Town of Brookhaven issues this policy prohibiting sexual harassment as well as harassment based upon an employee's age, race, religion, color, creed, disability, sexual orientation, **national origin, military status, marital status, familial status, domestic victim status, and predisposing genetic characteristics.**

Sexual harassment by any employee, whether or not in a supervisory capacity, is strictly prohibited. Sexual harassment, as defined by the Equal Employment Opportunity Commissioner, includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature 1) which is made a term or condition of employment, 2) the submission or rejection of which is used as a basis for employment decisions, or 3) which has as its purpose of effect the unreasonable interference with work performance or the creation of an intimidating, hostile or offensive environment. Other prohibited harassment includes conduct abusive or demeaning to an employee based upon age, race, religion, creed, color, disability, sexual orientation, **national origin, military status, marital status, familial status, domestic victim status, and predisposing genetic characteristics**, where such conduct has as its purpose or effect the unreasonable interference with work performance or the creation of an intimidating, hostile or offensive environment.

Recognizing that employees of the Town often come in contact with the public, this policy prohibiting harassment, shall also prohibit such conduct by an employee of the Town against a member of the public when it is either expressly or implicitly a term or condition of that person's entitlement to any benefit or right otherwise afforded to the public under applicable laws, rules and regulations.

The Town of Brookhaven strongly encourages those who believe they are victims of harassment prohibited by this policy to come forward and report the circumstances without fear of retaliation or intimidation. Employees will be given the choice of lodging their complaint with either a male or a female.

Due to the sensitive and serious nature of these complaints, those employees who believe they are victims of harassment prohibited by this policy are encouraged to bring their complaint to the attention of the Town Attorney, or his/her designee, who will assist the employee in the preparation of the written statement detailing the complaint. The Town Attorney or his/her designee will immediately initiate and coordinate a thorough and impartial investigation of the matter. Although efforts will be made to protect the confidentiality of all persons involved, such confidentiality cannot always be guaranteed. Moreover, employees who do not complain about unlawful harassment or who do not fully cooperate in an investigation may be compromising their legal rights.

It shall be the additional responsibility of all supervisors who learn of or suspect a violation of the policy to immediately bring the matter to the attention of the Town Attorney, or his/her designee.

Any employee found to have unlawfully harassed another employee or a member of the public, or is found to have hampered an investigation, will be subject to disciplinary action up to and including discharge or removal, in accordance with applicable law.

**ADOPTED
BY THE BROOKHAVEN
TOWN BOARD**

RESOLUTION NO. 427-07
MEETING OF: MAY 1, 2007

AMENDMENT TO TOWN OF
BROOKHAVEN SMOKING POLICY

WHEREAS, in an effort to provide a safe and healthy environment for employees and in accordance with the New York State Public Health Law, Article 13-E, Sections 1399-n through 1399-x, which restricts the smoking of any substance which contains tobacco, including cigarettes, cigars and pipes, the Town Board of the Town of Brookhaven adopted the following smoking policy, effective January 1, 1990; and

WHEREAS, the Town Board amended said smoking policy of the Town of Brookhaven on April 1, 1990, August 1, 1995, August 15, 2000 and June 18, 2002; and

WHEREAS, it has become clear to the Town Board that in order to protect the rights of its employees as well as its residents, it is necessary to again make revisions to the policy.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the smoking policy of the Town of Brookhaven, effective June 18, 2002, is hereby amended as follows:

SMOKING POLICY OF THE TOWN OF BROOKHAVEN

Smoking is prohibited within a fifty-foot radius of street-level entrances to all Town buildings and facilities located within the Town, which are either owned or leased by the Town of Brookhaven and which are designated as accessible by the public.

and be it further

RESOLVED, that all other provisions of the Town Smoking Policy,

effective January 1, 1990 and amended on April 1, 1990, August 1, 1995, August 15, 2000 and June 18, 2002 shall be in full force and effect; and be it further

RESOLVED, that this policy may be amended from time to time by resolution of the Town Board of the Town of Brookhaven. All amendments shall be in conformance with New York State Law and employees shall be notified accordingly.

RESOLUTION NO. 19
MEETING OF: JUNE 18, 2002

AMENDMENT TO TOWN
OF BROOKHAVEN
SMOKING POLICY

WHEREAS, in an effort to provide a safe and healthy environment for employees and in accordance with the New York State Public Health Law, Article 13-E, Sections 1399-n through 1399-x, which restricts the smoking of any substance which contains tobacco, including cigarettes, cigars and pipes, the Town Board of the Town of Brookhaven adopted the following smoking policy, effective January 1, 1990; and

WHEREAS, the Town Board amended said smoking policy of the Town of Brookhaven on April 1, 1990, August 1, 1995 and August 15, 2000; and

WHEREAS, it has become clear to the Town Board that in order to protect the rights of its employees as well as its residents, it is necessary to again make revisions to the policy;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the smoking policy of the Town of Brookhaven, effective August 15, 2000, is hereby amended as follows:

SMOKING POLICY OF THE TOWN OF BROOKHAVEN

Smoking is prohibited in any Town owned or Town leased facility.

Smoking is prohibited in Town-owned vehicles used to transport individuals on behalf of the Town.

Employees found smoking in violation of this policy may be subject to disciplinary action.

Copies of this policy will be posted and distributed to all employees and to all prospective employees on request.

Conflicts should be brought to the attention of the appropriate supervisory personnel. Employees may file a formal complaint with the Personnel Officer.

The Deputy Supervisor shall be the designee to assist in the enforcement of this policy by notifying employees who are in violation.

and be it further

RESOLVED that this policy may be amended from time to time by resolution of the Town Board of the Town of Brookhaven. All amendments shall be in conformance with New York State Law and employees shall be notified accordingly.

12 20 2011 11 09 AM

RESOLUTION NO. 13

MEETING OF NOVEMBER 15, 1994

BE IT RESOLVED as follows:

In connection with the performance of his/her official duties, for the Town, NO TOWN employee/official shall solicit from or offer to provide or accept services to any resident/citizen in connection with a Power of Attorney or any other written instrument granting such employee/official control over the finances of the resident/citizen.

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2016-0108
MEETING: FEBRUARY 4, 2016

AUTHORIZE AN AMENDMENT TO THE
TOWN OF BROOKHAVEN'S
ACCEPTABLE USE POLICY RELATING
TO INTERNET/INTRANET/EXTRANET-
RELATED SYSTEMS

WHEREAS, the Town Board of the Town of Brookhaven by Resolution No. 31 of March 5, 2002 adopted a Computer, E-Mail and Internet Usage Policy for the purpose of guiding and governing the use of the Town's computer and information processing and distribution systems, which thereafter was amended by the Town Board by Resolution No. 46 adopted on May 23, 2002, as well as by Resolution No. 2013-494 adopted May 7, 2013; and

WHEREAS, a request has been made by the Division of Information Technology to update the policy dated April 26, 2013 to include cellular/mobile devices in order to better manage the appropriate use of Town issued devices and further avoid capacity problems and reduce the susceptibility of the Town of Brookhaven's resources to computer viruses, compromise of network systems and other technology issues;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Brookhaven hereby authorizes the amendment to the Town of Brookhaven's Acceptable Use Policy dated April 26, 2013, to include cellular/mobile devices, in order to keep up with technology changes and effectively and efficiently serve the interests of the Town of Brookhaven; and be it further

RESOLVED, that the revised policy shall be subject to the approval of the Town Attorney; and be it further

RESOLVED, that this Resolution shall be effective immediately.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2013-494

MEETING: May 7, 2013

AUTHORIZE A CURRENT
ACCEPTABLE USE POLICY IN
REGARD TO
INTERNET/INTRANET/EXTRANET-
RELATED SYSTEMS

WHEREAS, the Town Board of the Town of Brookhaven by Resolution #31 of March 5, 2002, adopted a Computer, E-Mail and Internet Usage Policy for the purpose of guiding and governing the use of the Town's computer and information processing and distribution systems; and

WHEREAS, the Town Board of the Town of Brookhaven by Resolution #46 of May 23, 2002 amended the aforesaid Policy effective May 23, 2002; and

WHEREAS, in 2010 a request was made to update the Policy in an effort to keep up with technology changes; and

WHEREAS, attached is a final current Policy which has been approved by the Town Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Brookhaven that the attached updated Acceptable Use Policy in regard to the Town's computer and information processing and distribution systems is hereby approved and shall be in full force and effect immediately.

April 26, 2013

Town of Brookhaven Acceptable Use Policy

1.0 Overview

Internet/Intranet/Extranet-related systems, including but not limited to computer equipment, software, operating systems, storage media, network accounts providing electronic mail, WWW browsing, and FTP, are the property of Town of Brookhaven. These systems are to be used for business purposes in serving the interests of the Town of Brookhaven, and of our constituents in the course of normal operations.

Effective security is a team effort involving the participation and support of every Town of Brookhaven employee and affiliate who deals with information and/or information systems. It is the responsibility of every computer user to know these guidelines, and to conduct their activities accordingly.

Use of computer equipment and internet access to accomplish job responsibilities will always have priority over personal use. In order to avoid capacity problems and to reduce the susceptibility of the Town of Brookhaven resources to computer viruses, computer users must comply with the following guidelines.

1.1 Effective Date of this Policy – based on approved resolution

2.0 Purpose

The purpose of this policy is to outline the acceptable use of computer equipment at Town of Brookhaven. These rules are in place to protect the employee and Town of Brookhaven. Inappropriate use exposes the Town of Brookhaven to risks including virus attacks, compromise of network systems and services, and legal issues.

3.0 Scope

This policy applies to employees, contractors, consultants, temporaries, and other workers at the Town of Brookhaven, including all personnel affiliated with third parties. This policy applies to all equipment that is owned or leased by Town of Brookhaven.

4.0 Policy

4.1 General Use and Ownership

1. While Town of Brookhaven's network administration desires to provide a reasonable level of privacy, users should be aware that the data they create on the town systems remains the property of Town of Brookhaven. Because of the need to protect Town of Brookhaven's network, management cannot guarantee the confidentiality of information stored on any network device belonging to Town of Brookhaven.
2. Employees are responsible for exercising good judgment regarding the reasonableness of personal use. Individual departments are responsible for creating guidelines concerning personal use of Internet/Intranet/Extranet systems. In the absence of such policies, employees should be guided by departmental policies on personal use, and if there is any uncertainty, employees should consult their supervisor or manager.
3. For security and network maintenance purposes, authorized individuals within Town of Brookhaven may monitor equipment, systems and network traffic at any time.
4. Town of Brookhaven reserves the right to audit networks and systems on a periodic basis to ensure compliance with this policy.
5. The computers are provided for business use purposes. However, personal use of the computers is permitted in a limited fashion and should be the exception and not the norm and should be conducted during off-duty hours, lunch hour or break times if at all possible. Any and all personal use of the computers must still comply with this policy. Users understand that personal use of Town equipment is not private or confidential.

April 26, 2013

6. Quota time should be used by all Town personnel to access sites that have been restricted by time but allowed to access for town business.
7. Individuals using Town of Brookhaven equipment to access the internet are subject to having activities monitored by system or security personnel. Use of this system constitutes consent to security monitoring, and employees should remember that most sessions are not private.
8. Privately owned computer systems and devices, including personal laptops, PCs, jump/thumb drives, external hard drives, routers, access points, printers, scanners, multifunction devices (MFDs), cell/smart phones, iPads, tablets and cameras, may not be connected to the Town's network without express authorization of the Division of Information Technology. This includes both wired and wireless connections.
9. Restricted sites must be examined and approved by Information Technology before being released for access.
10. Users should not expect any right of privacy in the Town of Brookhaven's systems, including electronic communications and information created or stored on the Town of Brookhaven's systems.
11. The Town of Brookhaven, in order to ensure the continuity and safe operations of its systems, may employ intercept, capture, and/or use detection programs that search for patterns of abuse, security risks, illegal activity, and any violation of this policy.
12. All electronic files and documents originating from or passing through the Town of Brookhaven's systems are considered to be the property of the Town of Brookhaven.
13. Users shall not utilize the Town of Brookhaven's computers or systems for private financial gain, or commercial, advertising or solicitation purposes.
14. Only those Internet services and functions with documented business purposes for this agency will be enabled at the Internet firewall.
15. Employees should schedule communications-intensive operations such as large file transfers, video downloads, mass e-mailings and the like, for off-peak times.
16. All computers shall contain anti-virus software installed by IT. Such software shall be regularly updated by IT. It is the responsibility of the user to inform IT if his or her computer does not contain such software. No programs shall be installed on any Town owned or controlled computers unless by IT or with IT's approval.
17. Any information related to potential computer viruses should be submitted to the Director of Information Technology and/or your supervisor immediately. It should not be e-mailed to all users since the notification itself may contain a virus.

4.2 Security and Proprietary Information

1. The user interface for information contained on Internet/Intranet/Extranet-related systems should be classified as either confidential or not confidential, as defined by Town of Brookhaven confidentiality guidelines, details of which can be found in Law Department policies. Employees should take all necessary steps to prevent unauthorized access to this information.
2. Keep passwords secure and do not share accounts. Authorized users are responsible for the security of their passwords and accounts. User level passwords should be changed every ninety days or if and when passwords have been compromised.
3. All PCs, laptops and workstations should be secured with a password-protected screensaver, or by logging-off when the computer will be unattended.
4. Because information contained on mobile devices is especially vulnerable, special care should be exercised.
5. Postings by employees from a Town of Brookhaven email address to social media should contain a disclaimer stating that the opinions expressed are strictly their own and not necessarily those of Town of Brookhaven, unless posting is in the course of business duties.
6. All computers used by the employee that are connected to the Town of Brookhaven Internet/Intranet/Extranet, whether owned by the employee or Town of Brookhaven, shall be continually executing approved virus-scanning software with a current virus database unless overridden by departmental or group policy.

April 26, 2013

7. Employees must use extreme caution when opening e-mail attachments received from unknown senders, which may contain viruses, e-mail bombs, or Trojan horse code.
8. All appropriate precautions should be taken to detect viruses, including scanning all computer files (including attachments) that are downloaded and/or opened from the internet, before installation or execution of such files/attachments. Users should only open attachments from anticipated and trusted sources. Users should direct any questions regarding the proper use of virus detection software to the Information Technology Division prior to downloading and/or opening any computer files/attachments.
9. All electronic messages created and stored on the Town of Brookhaven computers or networks are the property of the Town and are not considered private.
10. Incoming and outgoing messages will be scanned for viruses and other malign content by Message Lab services.

4.3. Unacceptable Use

The following activities are, in general, prohibited. Employees may be exempted from these restrictions during the course of their legitimate job.

Under no circumstances is an employee of the Town of Brookhaven authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing Town of Brookhaven-owned resources.

The lists below are by no means exhaustive, but attempt to provide a framework for activities which fall into the category of unacceptable use.

System and Network Activities

The following activities are strictly prohibited, with no exceptions:

1. Violations of the rights of any person or company protected by copyright, trade secret, patent or other intellectual property, or similar laws or regulations, including, but not limited to, the installation or distribution of "pirated" or other software products that are not appropriately licensed for use by Town of Brookhaven.
2. Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which Town of Brookhaven or the end user does not have an active license is strictly prohibited.
3. Exporting software, technical information, encryption software or technology, in violation of international or regional export control laws, is illegal. The appropriate management should be consulted prior to export of any material that is in question.
4. Introduction of malicious programs into the network or server (e.g., viruses, worms, Trojan horses, e-mail bombs, etc.).
5. Revealing your account password to others or allowing use of your account by others.
6. Using a Town of Brookhaven computing asset to actively engage in procuring or transmitting material that is in violation of sexual harassment or hostile workplace laws in the user's local jurisdiction.
7. Making fraudulent offers of products, items, or services originating from any Town of Brookhaven account.
8. Making statements about warranty, expressly or implied, unless it is a part of normal job duties.
9. Effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server or account that the employee is not expressly authorized to access, unless these duties are within the scope of regular duties. For purposes of this section, "disruption" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes.
10. Port scanning or security scanning is expressly prohibited.

April 26, 2013

11. Executing any form of network monitoring which will intercept data not intended for the employee's computer, unless this activity is a part of the employee's normal job/duty.
12. Circumventing user authentication or security of any computer, network or account.
13. Interfering with or denying service to any user other than the employee's computer (for example, denial of service attack).
14. Using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, a user's terminal session, via any means, locally or via the Internet/Intranet/Extranet.
15. Providing information about, or lists of, Town of Brookhaven employees to parties outside Town of Brookhaven.
16. Personal files obtained via the internet may not be stored on individual PC hard drives or on local area network (LAN) file servers.
17. Official video and voice files should not be downloaded from the internet except when they will be used to serve an approved Departmental function.
18. Hacking or cracking is strictly prohibited regardless of motivation or damage. Testing the system's security shall be the responsibility of the town's Information Technology Division.
19. Users are prohibited from engaging in or attempting to engage in maliciously using or disrupting the Town of Brookhaven's computers, networks, or internet services;
20. Users are prohibited from engaging in or attempting to engage in misusing or damaging the Town of Brookhaven's equipment or systems;
21. Users are prohibited from engaging in or attempting to engage in monitoring or intercepting the files or electronic communications of other users or third parties;
22. Users are prohibited from engaging in or attempting to engage in hacking or obtaining access to systems or accounts (internal or external), which they are not authorized to use.
23. Users are prohibited from engaging in or attempting to engage in using another user's network log-in account, email address(es), and/or password(s);
24. Users are prohibited from engaging in or attempting to engage in breaching, testing or monitoring a town-owned computer or system or tampering with the town's system configuration and/or network security measures;
25. Users are prohibited from engaging in or attempting to engage in using the Town of Brookhaven's systems after such access has been denied or revoked;
26. Users are prohibited from engaging in or attempting to engage in attempting to delete, erase or otherwise conceal any information stored on any portion of the Town of Brookhaven's systems; or installing any software program, application or hardware device on a town-owned computer or system without first obtaining authorization from the Division of Information Technology.

5.0 Enforcement

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

April 26, 2013

Email and Communications Activities

1.0 Purpose

The purpose of this policy is to prevent tarnishing the public image of Town of Brookhaven. When email goes out from Town of Brookhaven the general public will tend to view that message as an official policy statement from the Town of Brookhaven.

1.1 Effective Date of this Policy – based on approved resolution

2.0 Scope

This policy covers appropriate use of any email sent from a Town of Brookhaven email address and applies to all employees, vendors, and agents operating on behalf of Town of Brookhaven.

3.0 Policy

3.1 Prohibited Use.

The Town of Brookhaven email system shall not to be used for the creation or distribution of any disruptive or offensive messages, including offensive comments about race, gender, hair color, disabilities, age, sexual orientation, pornography, religious beliefs and practice, political beliefs, or national origin. Employees who receive any emails with this content from any Town of Brookhaven employee should report the matter to their supervisor immediately.

1. Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam).
2. Any form of harassment via email, telephone or paging, whether through language, frequency, or size of messages.
3. Unauthorized use, or forging, of email header information.
4. Solicitation of email for any other email address, other than that of the poster's account, with the intent to harass or to collect replies.
5. Creating or forwarding "chain letters", "Ponzi" or other "pyramid" schemes of any type.
6. Use of unsolicited email originating from within Town of Brookhaven's networks of other Internet/Intranet/Extranet service providers on behalf of, or to advertise, any service hosted by Town of Brookhaven or connected via Town of Brookhaven's network.
7. Posting the same or similar non-business-related messages to large numbers of Usenet newsgroups (newsgroup spam).
8. Access to personal email accounts should be restricted for all Town personal. Town email should be used for Town business only.
9. No form of chain letter will be sent using Town of Brookhaven assets.
10. Do not automatically forward your e-mail to a non- Town of Brookhaven e-mail address.
11. Only authorized email software may be used i.e. GroupWise
12. Foul, inappropriate or offensive messages, including racial, sexual or religious slurs are prohibited.
13. Do not respond to junk or harassing mail received on your system. Delete such mail immediately.
14. Do not open attachments from unknown sources. All attachments must be validated by anti-virus software prior to being opened. However, this does not guarantee the absence of viruses. Knowing the source of your attachments is an advantage but not a guarantee.
15. Broadcast of network wide non-business related e-mails are prohibited.

3.2 Personal Use.

Using any amount of the Town of Brookhaven resources for personal emails is unacceptable. Sending chain letters or joke emails from a Town of Brookhaven email account is prohibited. Virus or other malware warnings and mass mailings from Town of Brookhaven shall be approved by Director of IT before sending. These restrictions also apply to the forwarding of mail received by a Town of Brookhaven employee.

April 26, 2013

3.3 Monitoring

Town of Brookhaven employees shall have no expectation of privacy in anything they store, send or receive on the company's email system. Town of Brookhaven may monitor messages without prior notice. Town of Brookhaven is not obliged to monitor email messages.

3.4 Email Attachments

Town of Brookhaven employees shall not attach large files to emails. The maximum file size is 20meg. All attachments should be saved onto the computer's hard drive and the original email and attachment should then be deleted from the inbox. Attachments received from unknown sources should never be opened.

3.5 Message Composition

All messages sent from Town of Brookhaven addresses are a representation of the town itself. Therefore, all correspondence should be written in a professional manner. It is encouraged to utilize spell checker as well as manually checking for grammatical errors.

3.6 Inbox Management

It is important to manage your inbox in a way so that key messages are readily available. Sorting can be done so by priority, subject, date, sender or whatever option seems fit to the user. When an employee is out of the office it is expected they prepare an "out of office" message, indicating their return date and additional instructions if someone were to require an immediate response.

3.7 Message Forwarding

Take caution when forwarding any message to ensure that the information is not sensitive or confidential. Do not forward any attachment that has not been cleared of viruses, Spyware or content. It is generally not authorized to forward mail from town addresses to personal accounts, unless a business need is presented.

3.8 Distribution Lists

It is recommended that distribution lists to do not include both Town employees and external users. It is also important than when composing a distribution list, all recipients be listed in the "bcc" field as to ensure privacy.

3.9 Email Retention

User Email is retained indefinitely unless deleted by the user. Trash email is deleted after 31 days by default. Mail that is flagged as RETAIN is not deleted.

3.10 Confidential Data

It is not the decision of the individual employee to disclose confidential or sensitive information. If an employee is in doubt as to the nature of information, he or she should contact his or her supervisor.

Confidential or sensitive information and records include, but are not limited to:

- Payroll information
- Social Security Numbers
- Personnel records
- Computer system passwords and security codes
- Budgetary information
- Pending litigation or other formal charges pending or in process and investigation
- Any legally privileged information or otherwise deemed confidential as a matter of law
- Medical information

April 26, 2013

3.11 Email Address Protection

Avoid publishing your Town of Brookhaven address on websites or submitting the address to every site or organization that requests it. If you are submitting a website for personal use, do not utilize your Town of Brookhaven email address. Similarly, don't share your coworkers' email addresses with friends, vendors or any outside organization. Do not post Town of Brookhaven email addresses on any Internet forums, chat rooms, or public areas.

4.0 Enforcement

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

5.0 Definitions

Term	Definition
Email	The electronic transmission of information through a mail protocol such as SMTP or IMAP. Typical email clients include Eudora and Microsoft Outlook.
Forwarded email	Email resent from an internal network to an outside point.
Chain email or letter	Email sent to successive people. Typically the body of the note has direction to send out multiple copies of the note and promises good luck or money if the direction is followed.
Sensitive information	Information is considered sensitive if it can be damaging to Town of Brookhaven or its constituents' reputation.
Virus warning.	Email containing warnings about virus or malware. The overwhelming majority of these emails turn out to be a hoax and contain bogus information usually intent on frightening or misleading users.
Unauthorized Disclosure	The intentional or unintentional revealing of restricted information to people, both inside and outside Town of Brookhaven, who do not have a need to know that information.

6.0 Revision History

Original policy adopted March 5, 2002 via resolution #32.

Amended on May 23, 2002, via resolution #46.

Email to all Town employees addressing resolution sent out on May 9, 2005.

Local Law Filing

A: 12/20/05
E: 12/27/05

New York State Department of State
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Brookhaven

Local Law No. 34 of the year 2005

A local Law amending Chapter 28 "Code of Ethics" by deleting the Town Ethics Code in its entirety and enacting a new Code of Ethics and Disclosure.

Be it enacted by the Town Board of the Town of Brookhaven as follows:

Section 1. Intent. The Town Board hereby recognizes that in order to insure proper administration of Town Government, it is necessary to establish standard conduct and guidance of the Town's officers, employees and appointees. Therefore, this Chapter establishing the Code of Ethics and Disclosure will facilitate as the proper guide governing the conduct of the Town's officers, employees and appointees.

Section 2. Amendments. The Code of the Town of Brookhaven is hereby deleted in its entirety and the new Chapter 28 Code of Ethics and Disclosure reads as follows: New Chapter 28 Code of Ethics and Disclosure.

NEW CHAPTER 28
CODE OF ETHICS AND DISCLOSURE

Chapter 28

- § 28-1 Purpose.
- § 28-2 Definitions.
- § 28-3 Code of Ethics as a Condition of Employment.
- § 28-4 Establishment of Board of Ethics; powers, duties, training and education
- § 28-5 Conflicts of interest.
- § 28-6 Political activities prohibited.
- § 28-7 Agent's notice of appearance.
- § 28-8 Use of Town Property; Improper use of information; Disclosure of interest.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

RECEIVED
DIV. OF PERSONNEL
TOWN OF BROOKHAVEN
2005 FEB 1 PM 10 43

- § 28-9 Revolving Door: Representation of interests before Town agencies.
- § 28-10 Financial disclosure required of officers and employees.
- § 28-11 Filing of Financial Disclosure Statement; review.
- § 28-12 Distribution and posting.
- § 28-13 Disclosure in certain applications.
- § 28-14 Penalties for offenses.
- § 28-15 General Severability.

DIV. OF PERSONNEL
 TOWN OF BROOKHAVEN
 2005 FEB 1 AM 10 49

Chapter 28, CODE OF ETHICS AND DISCLOSURE

§ 28-1. Purpose.

The Town of Brookhaven is one of the largest and most populated towns in New York State. Brookhaven Town's land area is the largest of any town municipal area in New York State. These characteristics require extraordinary local government services that should only be provided with the highest level of honesty, integrity and professionalism. The following Code of Ethics is formulated to meet that goal.

The proper administration of the government of the Town of Brookhaven requires its officers and employees, whether elected or appointed, paid or unpaid, including members of any administrative boards, commissions or other agencies, to be impartial and free from conflicts of interest, or even the appearance of conflicts, and free from partisan political influences in fulfilling their public responsibilities. The purpose of this Chapter is to establish standards of conduct and guidance to the officers, employees and appointees of the Town of Brookhaven.

In furtherance thereof, the Town Board of the Town of Brookhaven hereby exercises the option granted local governing bodies pursuant to Section 811 of the General Municipal Law by requiring all Town officials and appointees to file with the Local Board of Ethics a financial disclosure statement in such form as shall be approved by the Town Board by resolution. It is the intent of this Section to prevent conflicts of interest or the appearance of conflicts of interest by requiring disclosure of those financial items which could reasonably be expected to lead to a conflict of interest or the appearance of a conflict of interest.

§ 28-2. Definitions.

When used in this chapter and unless the context otherwise requires, the words used herein shall have the same meanings or definitions as those in Article 18, §800 et seq., and any amendments thereto, of the General Municipal Law are incorporated by reference herein:

AGENCY means any office, body, board, advisory board, authority, commission, council, department, district, division, bureau or committee of the Town, and any comparable entity funded or created by or for the Town for the purpose of conducting or financing an improvement(s) or service(s) for the promotion of the health, welfare, safety or convenience of the residents of the Town or for the benefit of real property in the Town but shall not include any fire district or library district.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

APPEAR, APPEARANCE, or APPEAR BEFORE means a representational communication by whatever form, whether personally or through another person or another entity with any agency of the Town relating to a business dealing.

BUSINESS DEALING means having or providing any contract or service or work application with the Town, and means buying, selling, renting, acquiring from or dispensing to the Town any good, service or property and is applicable to petitioning for, requesting, or obtaining any approval, grant, license, loan, permit, franchise or the like from the Town.

CANDIDATE any person seeking or taking affirmative acts in furtherance of obtaining a nomination, designation, or election to a public or party office in the Town of Brookhaven, excluding the party position of committeeperson.

DISCRETIONARY ACT means any action, involving the exercise of judgment or discretion by an official or employee, either acting as an individual or as a member of board or agency, or as an advisor to any board or agency, and includes, but is not limited to, negotiations, approval, advice, recommendation; authorization or audit.

DUTIES - Includes those functions performed in the service of the Town, as distinguished herein below:

- A. **ADVISORY DUTIES** - Include those functions performed by any volunteer public official as defined herein under, involving the mere gathering, analysis, dissemination or retrieval of general information for the purpose of rendering advice to the Town Board or the various Town department, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, in regard to their volunteer public service.
- B. **DISCRETIONARY DUTIES (Also referred to as discretionary authority.)** - Include those functions performed by any Town official involving greater than the mere dissemination or retrieval of general information; or those functions imposed by law, job description or general practice that involve decision making, policy making or the rendering of a judgment.
- C. **OFFICIAL DUTIES** - Include all functions regarding the reasonably expected responsibilities, charges, obligations, trusts and liabilities of any and all elected officials, officers, employees, public officials and/or public servants of the Town and its various departments, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, in regard to their public service.

ENGAGE - Includes any recognized dictionary definition thereof and/or of the following words: participate, enter into, join, take part in, arrange, bargain and/or deal.

FAMILY MEMBER means any family relative including a spouse, former spouse, child, stepchild, brother, sister, parent or dependent of an officer or employee.

FINANCIAL INTEREST is an interest that exceeds one tenth of one percent (1/10 of 1%) of the outstanding securities of a business concern; or if the interest is in an unincorporated business concern, exceeds one percent (1%) of the worth of such concern; or is a monetary interest in a corporation, person or firm which exceeds five percent (5%) of net worth of the officer or the employee and his or her family members; or is the interest of a partner in any partnership; or is the interest of a stockholder in a professional corporation. In computing percentages herein both the legal and the beneficial interest shall be aggregated.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-b)

LOBBYING, LOBBYING ACTIVITIES, PAID LOBBYIST – Any person paid to influence the passage or defeat of any legislation by the Town or the approval or disapproval of any legislation by the Town; the adoption or rejection by the Town of Brookhaven, its agencies, boards, departments, offices or commissions of any rule or regulation having the force and effect of law; or the outcome of any ratemaking proceeding by a Town agency or the outcome of any land application before a Town agency.

MINISTERIAL ACT means an action performed in a prescribed manner, whether by statute or by standard accepted and known practice, where there is no exercise of judgment or discretion.

OFFICIAL OR EMPLOYEE means any officer or employee of the Town, paid or unpaid, elected or appointed, on suspension, on leave for any reasons including but not limited to workers' compensation, disability, maternity or family medical, but does not include any judge, prosecutor or employee of the unified court system, nor volunteer fire fighters, civil defense volunteers or unpaid persons performing charitable work.

OUTSIDE EMPLOYER OR BUSINESS shall mean:

- (A) any activity, other than employment with the Town, for which the officer or employee receives compensation for services rendered or goods sold or produced.
- (B) any entity, except the Town, of which the officer or employee is a member, officer or employee.
- (C) any entity in which the officer or employee has an ownership interest.

POLITICAL ACTIVITIES – any activities related to partisan politics including recruiting, solicitation for fundraising, invoking political reprisals, and any action that uses political influence to affect the duties and responsibilities of any officer or employee of the Town.

TOWN means the Town of Brookhaven.

TOWN OFFICIAL – Includes all of the following categories of individuals, as distinguished herein below:

- A. **ELECTED OFFICIAL** – Includes all persons elected by the electors of the Town of Brookhaven pursuant to the laws of the State of New York.
- B. **EMPLOYEE and/or PUBLIC SERVANT** – Includes all persons whose salary is paid in whole or in part by the Town of Brookhaven, its various departments, agencies, boards, committees, councils, special districts, improvement districts and all other facets of the Town government and its subdivisions, whether pursuant to civil service regulations, contractual employment agreements or any other arrangements.

§ 28-3. Code of Ethics as condition of employment.

Compliance. It shall be a condition of employment and/or service to the Town, or any subdivision thereof, that all Town officials and employees thereof be in compliance with this Code of Ethics and any and all opinions rendered by the Board of Ethics and Financial Disclosure.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-c)

§ 28-4 Establishment of Board of Ethics; powers, duties, training and education.

A. Board established; membership.

1. A Board of Ethics is hereby established, pursuant to § 808 of Article 18, and any amendments thereto, of the General Municipal Law, incorporated by reference herein, to be composed of five (5) members who have a good reputation and a record of honorable community service to serve without compensation and at the terms set forth below:
 - (a) Qualifications of members.
 - (1) No member of the Ethics Board shall be an officer or employee of the Town of Brookhaven.
 - (2) No more than two (2) members shall be from any one political party.
 - (3) No Ethics Board member shall hold office in a political party, including a committeeperson, or be employed or act as a paid lobbyist or hold elective office in the Town served by the Ethics Board. An Ethics Board member may make campaign contributions but may not participate in any election campaign.
2. Such appointment shall conform to the following:
 - (a) The members of the Ethics Board shall be appointed by the Town Board, and the Supervisor shall annually designate one of the appointed members to serve as chairperson.
 - (b) The members of the Ethics Board shall be appointed no later than January 30, 2006 and annually thereafter in accordance with the provisions of this section.
 - (c) The terms of all the current members of the Ethics Board shall expire upon designation of the new board members appointed in accordance with the provisions of this section.
 - (d) The terms of office of appointed Ethics Board members shall be three (3) years and shall run from January 1st to December 31st; except that of the members appointed: one (1) shall serve until December 31, 2006, two (2) shall serve until December 31, 2007 and two (2) shall serve until December 31, 2008.
 - (e) An Ethics Board member shall serve until his or her successor has been appointed. If a vacancy occurs, it shall be filled, within sixty (60) days, for the unexpired portion of the term in the same manner as the original appointment.
 - (f) An Ethics Board member may be removed from office by the Town Board for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or conviction of a misdemeanor or felony after written notice and opportunity for such member to respond.
 - (g) A quorum shall be three (3) members and action shall be by a majority of the whole number of the board.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-d)

B. Executive Director:

1. The Board of Ethics shall be served by a full time Executive Director. The Supervisor shall designate and set the salary and compensation of the Executive Director from nominations made by the Ethics Board with approval by the Town Board. The Executive Director shall be responsible to the Ethics Board and shall be responsible for distributing the financial disclosure form to all the officers and employees required to file pursuant to section 28-10 herein and shall have such other powers and responsibilities as set forth in the Rules and Regulations as promulgated by the Ethics Board. The Executive Director may be removed by a majority vote of the Ethics Board. The Executive Director shall review the disclosure forms, annual and transactional, filed hereunder and transmit such forms or the notice regarding such forms as required herein. The Executive Director shall cause the information required to be filed with the Ethics Board to be compiled in an orderly fashion and insure a timely response to requests for information pursuant to the Freedom of Information Law.¹
2. The Town Attorney or his/her designee shall serve as counsel to the Ethics Board, except he/she shall be excused when he/she or the Ethics Board determines that he/she has, or may reasonably appear to have, a conflict of interest. In such event, substitute counsel shall be provided in a timely fashion.

C. Advisory Opinion:

1. The Board of Ethics shall render advisory opinions to officers, employees or former employees of the Town of Brookhaven with respect to Article 18 of the General Municipal Law and this Code of Ethics. Such advisory opinions shall be rendered pursuant to the written request of an affected individual officer, employee or former employee of the Town of Brookhaven, the Supervisor or by resolution of a majority of the Town Board.
2. The Board of Ethics shall make available to all officers and employees of the Town copies of this law and, upon request, all applicable forms adopted by the Town Board and such state statutes which it believes may be of assistance to the officers and employees in complying with applicable ethics provisions.
3. Investigations:
 - (a) Investigations. Upon receipt of a sworn complaint by any person alleging a violation of this Chapter or upon determining on its own initiative that a violation of this Chapter may exist, the Ethics Board shall have the authority to conduct any investigation necessary to carry out the provision of this Article. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.
 - (b) Hearings; penalties. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law, the Ethics Board may recommend in writing to the Town Board appropriate disciplinary action.

¹ Editor's Note: See § 85 et seq. of the Public Officers Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- (c) The Ethics Board may only act with respect to officers, employees and former employees of the Town. The termination of a Town officer's, employee's or former employee's term of office or employment with the Town shall not affect the jurisdiction of the Board with respect to the requirements imposed by this Article on the former officer, or former employee.
 - (d) The Town Board shall receive the recommendation(s) of the Ethics Board and shall take such disciplinary action and impose such penalties as provided in this Article. The Town Board may review the findings of fact and the record, if any, as shall be made available to it by the Ethics Board.
 - (e) The Board of Ethics shall refer any violation of any provision of this law to an appropriate prosecutorial agency.
- D. Generally, Opinions of the Board are required in order to comply not only with the letter of the Code of Ethics, but also with the spirit of preventing violations of an acceptable code of conduct. All opinions of the Board shall be published and available in the Town Clerk's Office, with all references to names, addresses and other information that would constitute a breach of confidentiality removed therefrom. The Board shall at all times protect the confidentiality of all Town officials, officers, employees or former employees of the Town or any subdivision thereof requesting an opinion therefrom.
 - E. Consistent with its duties and mandate and due process of law, the Board of Ethics shall operate under such rules and regulations as it deems reasonable and necessary to orderly administer and fulfill its duties and functions. The rules and regulations shall be filed with the Town Board, and, unless rejected or modified within sixty (60) days, shall be deemed adopted.
 - F. The Board of Ethics shall present an annual report of its activities to the Town Board at a public hearing.
 - G. The Board of Ethics shall have the powers and duties in connection with disclosure forms as set forth in this code.
 - H. The Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18, and any amendments thereto, of the General Municipal Law of the State of New York, which is incorporated by reference herein.
 - I. Training and education. The Ethics Board shall develop educational materials, an educational program on the provisions of this chapter and shall be required to provide annual training to all Town employees. The Ethics Board shall file a copy of all such materials with the Town Clerk and make information concerning this article and the Ethics Code available to the officers and employees of the Town, to the public, and to persons interested in doing business with the Town of Brookhaven.

§ 28-5. Conflicts of interest.

A. Code of Ethics for Town officers and employees.

- 1. Equal treatment of public by Town officers and employees. Every town officer and employee of the Town of Brookhaven shall treat each and every member of the public, whether a person, firm, corporation or other organization, with equal consideration and without special advantage. No Town officer or employee shall discriminate on the basis of race, color, creed/religion, national origin, age, disability, sex or sexual orientation.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-f)

2. **General prohibition.** A Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal benefit, financial or otherwise, for any of the following persons:
 - (a) the Town officer or employee;
 - (b) his or her outside employer or business;
 - (c) a member of his or her household;
 - (d) a customer or client (current or within the past five (5) years); or
 - (e) a family member

3. **Gifts.** A Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town, nor accept anything of value from any person the Town officer or employee knows or has reason to know is seeking or has received or sought a financial benefit from the Town within the previous twenty-four (24) months.

4. **Recusal.**
 - (a) A Town officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may benefit any of the persons listed in subdivision two of this section.
 - (b) Whenever a Town officer or employee is required to recuse himself or herself under this Code of Ethics. He or she:
 - (1) shall promptly inform his or her superior, if any,
 - (2) shall promptly file with the Town Clerk and Ethics Board a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board; and,
 - (3) shall immediately refrain from participating further in the matter.
 - (c) Whenever a vote is required from which a Town officer or employee must recuse himself or herself such recusal shall not be counted for the purpose of determining whether a majority or other ratio required by statute, local law, ordinance or resolution to pass a measure has been reached, provided, however, that no action may be taken by a body unless a majority of all of the members appointed or elected to such body, votes favorably. If a body is reduced below such majority by reason of a recusal required pursuant to this section, thereby causing an inability to act, the application shall be deemed denied.

5. **Representation.** A town officer or employee shall not represent any other person in any matter that person has before the Town nor represent any other person in any matter against the interests of the Town except in matters involving collective bargaining.

6. **Appearances.** A Town officer or employee shall not appear before any agency of the Town, except on his or her own behalf or on behalf of his or her own constituents or on behalf of the Town.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-g)

7. Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.
 8. Inducement of others. A Town officer or employee shall not induce or aid another officer or employee of the Town to violate any of the provisions of this Code of Ethics.
- B. Exclusions from the Code of Ethics. The provisions of §28-5 of this article shall not prohibit, or require recusal as a result of:
1. An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States.
 2. A ministerial act.
 3. Gifts:
 - (a) received by the Town officer or employee from his or her parent, spouse, child or sibling; or
 - (b) accepted on behalf of the Town and transferred to the Town; or
 - (c) refreshments and meals received at a widely attended gathering as defined by the Rules and Regulations of the Ethics Board; or
 - (d) motivated by a pre-existing personal relationship, as defined by the Rules and Regulations of the Ethics Board.
 4. Gifts or benefits having a value of one hundred (\$100.00) dollars or less that are received by a Town officer or employee listed in Section Eleven of the Domestic Relations Law for the solemnization of a marriage by that officer or employee at a place other than his or her normal place of business or at a time other than his or her normal hours of business.
 5. Non-monetary awards from charitable organizations.
 6. Receipt of Town services or benefits, or use of Town facilities that are generally available on the same terms and conditions to residents or a class of residents in the Town.
 7. Representation of constituents by elected officials without compensation in matters of public advocacy.

§ 28-6. Political Activities Prohibited.

- A No person shall engage in any political activities on any Town premises at any time. Such prohibited activities include but are not limited to the following:
1. sales or purchases of tickets to political events
 2. discussion of tickets to political events
 3. solicitation to join a political party or activity
 4. discussion of promotions or transfers or changes of assignments or compensation on the basis of any political considerations.
 5. solicitation of funds or goods or services for political purposes

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-h)

- B. No person having supervisory control or who is superior in title to any official or employee of the Town shall engage in any of the following actions with subordinates at any time on or off Town premises:
1. discussion of or solicitation of ticket purchases or sales
 2. solicitation to join a political party or political activity.
 3. use of political considerations in discussing duties, positions, compensation, changes in titles or work assignments
 4. use of political considerations as the reason for promotions, assignment changes, demotions or termination.
- C. No officer or employee of the Town shall solicit or discuss political contributions with Town vendors or consultants at any time, on or off Town premises.

§ 28-7. Agent's notice of appearance. An official of the Town having discretionary duties shall require the filing of a written notice of appearance by any agent.

- A. Filing required. An official of the Town having discretionary duty shall require the filing of a written notice of appearance by any agent retained by a person, business entity, association or other client prior to any discussion or meeting with such agent.
- B. Form. A sworn notice of appearance shall either be by letter or on a form prepared by the Town Attorney's office and must include the business name, individual name, address and telephone number of both the agent and client, the date the agent was retained by the client, the matter the agent is appearing on and the department the agent is appearing before and relationship of agent or client to any town officer or employee and shall certify that any written application is truthful and complete.
- C. Filing. The department with which the notice of appearance has been filed shall keep the original, and a copy shall be forwarded to and maintained by the Town Clerk, as a readily available public document.

§ 28-8. Use of Town Property; Improper use of information; Disclosure of interest.

- A. Use of Town property. No Town officer or employee of the Town of Brookhaven shall use or permit the use of Town property, including land, vehicles, equipment, computers, internet, e-mail, telephones, materials and any other Town property, for personal convenience or profit, except when such use is available to Town citizens generally or is authorized by law or as a matter of general Town policy to all persons similarly situated.
- B. Improper use of information; disclosure of interest.
1. No officer, or employee of the Town of Brookhaven shall disclose or use for profit, for himself or others, information about the property, affairs, finances or government of the Town of Brookhaven that is not generally available to the public.
 2. Any officer or employee of the Town of Brookhaven whose duty it is to participate in the discussion of or who gives official opinions to the Town Board or any other agency of

(If additional space is needed, attach pages the same size as this sheet, and number each.)

the Town of Brookhaven on any legislation before the Town Board or matter under consideration by an agency shall publicly disclose, for the official record and on a form prescribed by the Board of Ethics, the nature and extent of any direct or indirect financial or other pecuniary interest he has in that matter or legislation.

§ 28-9. Revolving Door: Post employment representation before Town agencies.

- A. A Town officer or employee shall not appear or practice before the Town, except on his or her own behalf, or receive compensation for any services rendered in relation to any case, proceeding, application, or transaction before the Town, for a period of one year after the termination of his or her Town service or employment; however, the bar shall be two (2) years as to cases, proceedings, applications or transactions in which the Town officer or employee was directly concerned and personally participated during Town service or were under the Town officer or employee's active consideration.
- B. **Restrictions – Town Consultants**
All Town consultants, including but not limited to attorneys, architects, engineers, land use or economic consultants shall be prohibited from performing any work or services for any entity, individual, property owner or other involved governmental agency which may reasonably relate to the subject matter of the report. This prohibition shall be for a period of two (2) years, which shall commence upon any action taken by the Town as a result of the consultant's recommendations. All consultants shall disclose in writing any and all entities, individuals, property owners or other governmental agencies for which the consultant is currently providing or has previously provided services, which involve the subject of the report.

§ 28-10. Financial disclosure required of officers and employees.

- A. The Board of Ethics shall be the repository for completed annual statements of financial disclosure and shall give the notice required by Section 808(5) of the General Municipal Law to the Temporary State Commission on Local Government Ethics. The Ethics Board shall decide who is required to file a disclosure statement consistent with the purpose and intent of this Code.
- B. The Board of Ethics is hereby authorized pursuant to Section 811(1)(d) of the General Municipal Law to promulgate rules and regulations governing the filing of annual financial disclosure and transactional disclosure forms, as such forms are adopted by the Town Board, and to enforce such filing requirements.
- C. The Board of Ethics is authorized to grant written exceptions with respect to complying with the timely filing of such disclosure statements upon the showing of undue hardship and to prescribe rules and regulations relating to such exceptions with respect to extensions and additional periods of time within which to file such financial statements including the imposition of a time limitation upon such extensions.
- D. The Ethics Board shall notify the appropriate Town officer of the failure to timely receive an annual financial disclosure form complying with this Code in order to invoke the remedy for failure to file provided in Section 28-14(7).
- E. Annual Financial Disclosure shall be filed by all of the following:
 - 1. elected officials

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-j)

2. appointed officials (salaried or unsalaried) to Town offices or related agencies under the aegis of the Town
 3. managerial and supervisory personnel for both the Town and related agencies
 4. all code compliance and enforcement personnel of the Town or related agencies
 5. all employees having any personnel duty assignment authority
 6. all employees with legal or financial duties of the Town or related agencies
 7. all information and data entry personnel
 8. all personnel having discretionary authority with property assessments
 9. all personnel having authority in receipt of taxes
 10. all personnel with discretionary authority related to the issuance of licenses, permits and the receipt of fees.
- F. If the Board determines that an annual disclosure statement is deficient or reveals a possible or potential violation of this article, the Board shall notify the person in writing of the deficiency or possible or potential violation, afford the individual a reasonable period to correct such deficiency and explain the penalties for failure to comply with this Article.

§ 28-11. Filing of Financial disclosure statement; review.

- A. All officers and employees required to file a disclosure statement as outlined in §28-10 shall file such statement with the Ethics Board of the Town of Brookhaven on official forms as established by resolution of the Town Board on or before the thirty-first (31st) day of January of each year or within thirty (30) days after his or her election, or appointment to office (or related agency) in the Town of Brookhaven whichever shall occur first.
- B. Candidates who file party designating petitions for nominations at a primary election shall file such disclosure statement within fourteen (14) days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election.
- C. Candidates for independent nomination who have not been designated by a party to receive a nomination shall file such disclosure statement within fourteen (14) days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election.
- D. Candidates who receive the nomination of a party for a special election shall file such statement within fourteen (14) days after the date of the meeting of the party committee at which they are nominated.
- E. A candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by a declination, shall file such statement within ten (10) days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-k)

§ 28-12. Distribution and posting.

- A. **New officers and employees.** The Personnel Division of the Supervisor's Office shall issue a copy of this Chapter and any controlling opinions of the Ethics Board ratified by the Town Board to all new officers and employees of the Town, or any subdivision thereof, at the time their employment information is processed and shall note their personnel file accordingly. The new officers and employees shall sign a statement that the Code of Ethics and any controlling opinions was received and read.
- B. **Oaths of office.** The Town Clerk's Office shall not administer the oath of office to any new employee, reappointed officer or elected official until notified by the Personnel Division that said employee or officer has received said copies.
- C. **Current officers and employees.** Said Personnel Division shall issue a copy of this chapter to all current officers and employees of the Town, or any subdivision thereof, within thirty (30) days of its adoption, by attaching a copy to their paycheck, and shall note their personnel files accordingly. The current officers and employees shall sign a statement that a copy of the Code of Ethics was received and read.
- D. **Volunteer officers, officials and/or public officials.** Unsalaries Town officials shall be required to file an oath of office with the Town Clerk and, upon doing so, shall be issued a copy of the Code of Ethics from the Town Clerk. It shall be the responsibility of the Town official appointing said volunteer to inform them of the requirements herein. The volunteer officers, officials and/or public officials shall sign a statement that a copy of the Code of Ethics was received and read.
- E. **Subsequent changes and ratified controlling opinions.** Said Personnel Division shall issue a copy of any changes to this chapter or any controlling opinion of the Ethics Board ratified by the Town Board to all officers and employees of the Town, or any subdivision thereof, within thirty (30) days of adoption or ratification by the Town Board, by attaching a copy to their paycheck, and shall note their personnel files accordingly. The Town official appointing a volunteer shall be responsible for issuing a copy of said changes to volunteers, unless said volunteers serve on a committee, board, council or task force, in which case the Supervisor's Office shall issue same to the chairman thereof, who shall be responsible for notifying the members thereof. The officers and employees shall sign a statement that a copy of subsequent changes and ratified controlling opinions to the Code of Ethics was received and read.
- F. **Failure by the Town to timely issue a copy of this chapter or any ratified controlling opinion of the Ethics Board to officers and employees of the Town or any subdivision thereof shall have no effect on the duty of compliance with this Code, nor the enforcement of the provisions herein.**

§ 28-13. Disclosure of interest by outside entities in certain applications.

- A. **Disclosure requirements.** Every application, petition or request submitted for a tax grievance for a non-residential parcel, variance, amendment, change of zone, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of this Code shall contain a transactional disclosure statement as set forth at the end of this Chapter completed to the best extent known to such applicant on such form or amended form as shall be approved by the Town Board by resolution.
- B. **Each applicant shall to the best extent known to such applicant disclose the name, residence and the nature and extent of the interest that any State officer or officer or employee of the**

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town of Brookhaven or the County of Suffolk has in the person, partnership or association making such application, petition or request.

- C. Ownership of less than five (5%) percent of the publicly owned stock of a corporation shall not constitute an interest for the purposes of this Section and the disclosure provisions of this section shall be construed to be in addition to other disclosure requests of this Code.
- D. For purposes of § 28-13, an officer or employee shall be deemed to have an interest in the application when he or she, or his or her spouse, or brothers, sisters, parents, children, grandchildren or the spouse of any of them (a) is the applicant or, (b) is an officer, director, partner or employee of the applicant or (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant.
- E. The foregoing disclosure provisions of Section 28-13 shall apply to any individual who is a party officer of a political party in Suffolk County. "Party officer" shall include any person holding any position or office, whether by election, appointment or otherwise in any party as defined in the Election Law for any position defined in either the Election Law or the General Municipal Law.
- F. The foregoing provisions of Section 28-13 shall not be deemed nor construed to allow any officer or employee to participate in any fashion in any act prohibited or restricted by this Code.

§ 28-14. Penalties for offenses.

- A. Any individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly or willfully, with intent to deceive, makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure or who is determined to have knowingly and willfully violated this Code of Ethics may be assessed a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.), may be removed from office, dismissed, suspended or subject to such other disciplinary action as the Town Board deems advisable, subject to any rights the individual may have pursuant to statute, contract, law, rule or regulation. The Ethics Board shall adopt rules governing the conduct of inquiries concerning violations of this Chapter, which rules shall provide for due process. The Town Board may only impose the penalties referred to in this section after conducting an adjudicatory proceeding and after its determination becomes final.
- B. Civil fine. Any officer or employee who violates any provision of this article may be subject to a civil fine of up to one thousand five hundred dollars (\$1,500.) for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this article.
- C. Damages. Any person, whether or not an official or employee, who violates any provision of this article shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this article, other than a civil forfeiture pursuant to subdivision four of this section.
- D. Civil forfeiture. Any person, whether or not an officer or employee, who intentionally or knowingly violates any provision of this article may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this article.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-m)

- E. Misdemeanor. Any violation of any provision of this article may be punishable as a class A misdemeanor.
- F. Debarment.
1. Any person, whether or not an officer or employee, who intentionally or knowingly violates any provision of this article shall be prohibited from entering into any contract with the town for a period not to exceed three (3) years.
 2. No person, whether or not a Town officer or employee, shall enter into a contract in violation of a bar imposed pursuant to subdivision (a) of this section.
 3. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public.
- G. The salary of any officer or employee failing to file a financial disclosure form by the deadline established by this Code shall be withheld, until compliance with the financial disclosure provisions of this Code is achieved.

§ 28-15. General Severability.

If any clause, sentence, paragraph, section or item of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.

Section 3. Effective Date. This Local Law shall become effective immediately upon filing with the Secretary of State of New York.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-n)

TOWN OF BROOKHAVEN BOARD OF ETHICS
TRANSACTIONAL DISCLOSURE FORM

Applicant Name: _____
(Last Name, First Name, Middle Initial)

Applicant Address: _____
(Street, Apt.)

City	State	Zip Code
------	-------	----------

Nature of Application (Check All That Apply):

- | | |
|---|--|
| <input type="checkbox"/> Tax Grievance for non-residential parcel | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Change of Zone |
| <input type="checkbox"/> Approval of Plat | <input type="checkbox"/> Exemption from Plat or Official M |
| <input type="checkbox"/> License or Permit | <input type="checkbox"/> Other |

Does any Officer of the State of New York, Officer or Employee of the Town of Brookhaven, Officer or Employee of Suffolk County, Officer of a Political Party in Suffolk County or his or her spouse, brother, sister, parent, child, grandchild, or the spouse of any of them have an interest in this application by virtue of being the actual Applicant, or, by virtue of having an interest in the Corporation, Partnership, or association making such application? Yes N

If you answered "Yes", complete the rest of the form and date and sign where indicated.

If you answered "No", simply sign and date the form where indicated.

INTERESTED PARTY AND NATURE OF INTEREST

Name: _____

Address: _____

Title: _____ Department: _____

Relationship to Public Officer/Employee and his or her title if other than self:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-0)

INTERESTED PARTY:

- | | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| A. Is the Owner of greater than five percent (5%) of the Corporate Stock of the Applicant when the Applicant is a corporation whose stock is listed on the New York or American Stock Exchanges? | --- | --- |
| B. The actual Applicant | --- | --- |
| C. An Officer, Director, Partner, or Employee of the Applicant | --- | --- |
| D. Legally or beneficially owns or controls any stock of a non-publicly traded corporate Applicant or is a member of a Partnership or Association of the Applicant. | --- | --- |

Date
Form: BOE003-2000

Signature of Applicant

DATED: DECEMBER 20, 2005
FARMINGVILLE, NEW YORK


LAURI MURRAY, DEPUTY TOWN CLERK
TOWN OF BROOKHAVEN

RECEIVED
DIV. OF PERSONNEL
TOWN OF BROOKHAVEN
2005 FEB 1 AM 10 48

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1-p)

Local Law Filing

A: 09/29/09

New York State Department of State

E: 10/13/09

41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Brookhaven

Local Law No. 21 of the year 2009

A local Law amending Chapter 28 of the Code of the Town of Brookhaven entitled "Code of Ethics and Disclosure" by adding Article II entitled "Whistleblower Protection Act"

Be enacted by the Town Board of the Town of Brookhaven as follows:

Section 1. Legislative Intent.

This Article shall be known as the Whistleblower Protection Act. The intent of this Article is to protect all Town of Brookhaven employees who disclose illegal or improper governmental activities from retaliation.

Section 2. Text Addition

Chapter 28 of the Code of the Town of Brookhaven entitled "Code of Ethics and Disclosure" is hereby amended by adding the following text:

**ARTICLE II
WHISTLEBLOWER PROTECTION ACT**

§28-16 Purpose

It is the purpose of this Local Law to encourage Town employees to report information that they reasonably and in good faith believe to be a violation of law, rule, regulation by another Town employee; or which evidences gross mismanagement, a gross waste of funds.

It is further the purpose of this Local Law to protect employees who report such information from reprisals in the form of adverse personnel actions, and to establish the procedures in order to accomplish these goals.

§28-17 Definitions

When used in this Article, and unless the context specifically indicates otherwise, the following words shall have the meanings indicated:

IMPROPER GOVERNMENTAL ACTION - shall mean any action taken by a Town official or employee, or an agent of such official or employee, which is undertaken in the performance of such official's, employee's or agent's official duties, whether or not such action is within such official's, employee's or agent's scope of employment, and which action is in violation of any federal, state or local law, rule or regulation.

GROSS MISMANAGEMENT - shall mean any action or activity by a Town official or employee which is undertaken in the performance of such official's or employee's official duties, whether or not such action or activity is within such official's or employee's scope of employment, and which action or activity is an arbitrary

(If additional space is needed, attach pages the same size as this sheet, and number each.)

and capricious misuse of Town property or facilities, a persistent abuse of authority, or is a willful omission to perform a required duty.

GROSS WASTE OF FUNDS – shall mean the procurement of any supplies and/or professional services by a Town official or employee, or an agent of such official or employee, the procedure for which is not governed by the General Municipal Law or the Town of Brookhaven Procurement Policy, where the cost of such supplies and/or professional services unreasonably exceeds the cost that is standard in the appropriate industry for which such supplies and/or professional services are procured.

PROTECTED DISCLOSURE – shall mean any disclosure of information by a Town official or employee pursuant to the procedures set forth herein, which the official or employee reasonably and in good faith believes evidences an improper governmental action, gross mismanagement, or a gross waste of funds.

RETALIATORY PERSONNEL ACTION – shall mean any action affecting compensation, appointment, promotion, transfer, assignment, reassignment or evaluation of performance, or other adverse employment action taken against a Town official or employee regarding his/her terms and conditions of employment.

SUPERVISORY AUTHORITY – shall mean managerial authority or any other authority to direct and control the work performance of any other Town official or employee.

§28-18 Retaliation Prohibited

No official or employee having supervisory authority over another official or employee of the Town of Brookhaven shall engage in, or threaten to engage in, retaliatory personnel action against any official or employee because he/she has made, or threatens to make, a protected disclosure pursuant to this Article.

§28-19 Procedure for Disclosure of Information

- A. Any official or employee of the Town of Brookhaven who reasonably and in good faith believes that any other official or employee is engaged in, or has engaged in, improper governmental action, gross mismanagement or gross waste of funds, may disclose such information to the official's or employee's appointing authority, or his/her designee, for appropriate action. Upon receipt of such information by the appointing authority or his/her designee, such disclosure shall be deemed to be a protected disclosure.
- B. Notwithstanding the procedure enumerated in paragraph (A) above, any official or employee of the Town of Brookhaven who reasonably and in good faith believes that any other official or employee is engaged in, or has engaged in, improper governmental action, gross mismanagement or gross waste of funds, and where such official or employee reasonably believes that disclosure to their respective appointing authority or designee will not result in the taking of corrective action, such official or employee may disclose such information directly to the Town Attorney, or his/her designee, for further investigation and official action. Upon receipt of such information by the Town Attorney, or his/her designee, such disclosure shall be deemed to be a protected disclosure.
- C. The Town Attorney is hereby designated by the Town Board of the Town of Brookhaven, pursuant to §§ 20-22 (C) (12) and (14) of the Code of the Town of Brookhaven, to investigate all allegations of improper governmental action, gross mismanagement and gross waste of funds, and shall be authorized to recommend appropriate corrective action, or any other action required to be taken by law.
- D. Should the Town Attorney be the subject of any alleged improper governmental action, gross mismanagement or gross waste of funds, an official or employee alleging such improper governmental action, gross mismanagement or gross waste of funds may disclose such information directly to the Town of Brookhaven Board of Ethics. Upon receipt of such information by the Town of Brookhaven Board of Ethics, such disclosure shall be deemed to be a protected disclosure.
- E. For the purposes of this Article, if any disclosure is made to the Town of Brookhaven Board of Ethics by any official or employee of the Town of Brookhaven alleging improper governmental action, gross

(If additional space is needed, attach pages the same size as this sheet, and number each.)

mismanagement or gross waste of funds, provided that such disclosure is made reasonably and in good faith, then such a disclosure shall be deemed to be a protected disclosure.

§28-20 Procedure for Filing a Complaint of Alleged Retaliatory Personnel Action

- A. Where an official or employee of the Town of Brookhaven is subject to dismissal, or other retaliatory personnel action, and the official or employee reasonably believes that such dismissal or other retaliatory personnel action would not have been taken but for the official's or employee's release of any information constituting a protected disclosure, the official or employee may file a complaint with the Town Attorney within thirty (30) days of the alleged prohibited retaliatory personnel action or dismissal.
- B. The Town Attorney or his/her designee shall immediately initiate and coordinate a thorough and impartial investigation of any complaint filed pursuant to paragraph (A) above, which may include, but not be limited to, the referral of such a complaint to the Town of Brookhaven's Labor Counsel for further investigation.

§28-21 Remedy and Relief

If it is determined that a prohibited retaliatory personnel action has occurred, appropriate action shall be taken, which may include but shall not be limited to the discipline of the employee(s) and/or official(s) who caused the retaliatory personnel action to occur, and to the extent feasible, affording appropriate relief to the employee or official who was the subject of the retaliatory personnel action.

§28-22 Existing Rights

Nothing in this Article shall be deemed to diminish the rights, privileges, or remedies of any official or employee under any other law or regulation or under any collective bargaining agreement or employment contract.

Section 3. Authority.

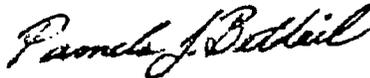
The Town is vested with the authority to make these amendments by Local Law pursuant to New York Municipal Home Rule Law § 10.

Section 4. Severability.

If any clause, sentence, paragraph, section or item of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph, section or item directly involved in the controversy in which such judgment shall have been rendered.

Section 5. Effective date.

This Local Law shall become effective immediately upon filing with the Secretary of State



Dated: September 29, 2009
Farmingville, New York

PAMELA J. BETHEL, TOWN CLERK
TOWN OF BROOKHAVEN

(If additional space is needed, attach pages the same size as this sheet, and number each.)

McKinney's General Municipal Law § 800

P

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated CurrentnessGeneral Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 800. Definitions

When used in this article and unless otherwise expressly stated or unless the context otherwise requires:

1. "Chief fiscal officer" means a comptroller, commissioner of finance, director of finance or other officer possessing similar powers and duties, except that in a school district the term shall not mean a member of the board of education or a trustee thereof.
2. "Contract" means any claim, account or demand against or agreement with a municipality, express or implied, and shall include 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.
3. "Interest" means a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this article a municipal officer or employee shall be deemed to have an interest in the contract of (a) his spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves, (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.
4. "Municipality" means a county, city, town, village, school district, consolidated health district, county vocational education and extension board, public library, board of cooperative educational services, urban renewal agency, a joint water works system established pursuant to chapter six hundred fifty-four of the laws of nineteen hundred twenty-seven, or a town or county improvement district, district corporation, or other district or a joint service established for the purpose of carrying on, performing or financing one or more improvements or services intended to benefit the health, welfare, safety or convenience of the inhabitants of such governmental units or to benefit the real property within such units, an industrial development agency but shall have no application to a city having a population of one million or more or to a county, school district, or other public agency or facility therein.
5. "Municipal officer or employee" means an officer or employee of a municipality, whether paid or unpaid, including members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee paid from county funds. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.
6. "Treasurer" means a county treasurer, city treasurer, town supervisor, village treasurer, school district treasurer, fire district treasurer, improvement district treasurer, president of a board of health of a consolidated health district, county vocational educational and extension board treasurer, treasurer of a board of cooperative educational services, public general hospital treasurer, or other officer possessing similar powers and duties.

CREDIT(S)

McKinney's General Municipal Law § 801

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated CurrentnessGeneral Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 801. Conflicts of interest prohibited

Except as provided in section eight hundred two of this chapter, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, 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 and (2) no chief fiscal officer, 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 municipality of which he is an officer or employee. The provisions of this section 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.

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1965, c. 1043, § 2.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

Former Sections

A former § 801, relating to the effective date of the General Municipal Law, was renumbered § 901 by L.1964, c. 946, § 3. See, now, General Municipal Law § 1001.

McKinney's General Municipal Law § 801, NY GEN MUN § 801

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copr © 2006 Thomson/West

McKinney's General Municipal Law § 802

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 802. Exceptions

The provisions of section eight hundred one of this chapter shall not apply to:

1. a. The designation of a bank or trust company as a depository, paying agent, registration agent or for investment of funds of a municipality except when the chief fiscal officer, 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 municipality would be required because of the foregoing restriction, a bank or trust company within the municipality may nevertheless be so designated;
- b. A contract with a person, firm, corporation or association in which a municipal 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;
- c. 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;
- d. The purchase by a municipality 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 governing board;
- e. The acquisition of real property or an interest therein, through condemnation proceedings according to law;
- f. A contract with a membership corporation or other voluntary non-profit corporation or association;
- g. The sale of bonds and notes pursuant to section 60.10 of the local finance law;
- h. A contract in which a municipal officer or employee has an interest if such contract was entered into prior to the time he was elected or appointed as such officer or employee, but this paragraph shall in no event authorize a renewal of any such contract;
- i. Employment of a duly licensed physician as school physician for a school district upon authorization by a two-thirds vote of the board of education of such school district, notwithstanding the fact that such physician shall have an interest, as defined in section eight hundred one of this chapter, in such employment.
- j. Purchases or public work by a municipality, other than a county, located wholly or partly within a county with a population of two hundred thousand or less pursuant to a contract in which a member of the governing body or board has a prohibited interest, where:
 - (1) the member of the governing body or board is elected and serves without salary;
 - (2) the purchases, in the aggregate, are less than five thousand dollars in one fiscal year and the governing body or board has followed its procurement policies and procedures adopted in accordance with the provisions of section

McKinney's General Municipal Law § 802

one hundred four-b of this chapter and the procurement process indicates that the contract is with the lowest dollar offer;

(3) the contract for the purchases or public work is approved by resolution of the body or board by the affirmative vote of each member of the body or board except the interested member who shall abstain.

2. a. A contract with a corporation in which a municipal officer or employee has an interest by reason of stockholdings when less than five per centum of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee;

b. A contract for the furnishing of public utility services when the rates or charges therefor are fixed or regulated by the public service commission;

c. 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;

d. 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 the office;

e. A contract in which a municipal 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 seven hundred fifty dollars.

f. A contract with a member of a private industry council established in accordance with the federal job training partnership act [FNI] 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.

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1965, c. 1043, § 3; L.1966, c. 135, § 1; L.1968, c. 105, § 1; L.1970, c. 1019, § 1; L.1973, c. 195, § 18; L.1977, c. 28, § 1; L.1983, c. 440, § 1; L.1996, c. 364, § 5 1, 2.)

[FNI] 29 USCA § 1501 et seq.

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 802, NY GEN MUN § 802

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

McKinney's General Municipal Law § 803

P

Effective: August 16, 2005

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 803. Disclosure of interest

1. Any municipal officer or employee who has, will have, or later acquires an interest in or whose spouse has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the municipality of which he or she is an officer or employee, shall publicly disclose the nature and extent of such interest in writing to his or her immediate supervisor and to the governing body thereof as soon as he or she 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 such body.

2. Notwithstanding the provisions of subdivision one of this section, disclosure shall not be required in the case of an interest in a contract described in subdivision two of section eight hundred two hereof.

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1965, c. 1043, § 4; L.2005, c. 499, § 1, eff. Aug. 16, 2005.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 803, NY GEN MUN § 803

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 804

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 804. Contracts void

Any contract willfully entered into by or with a municipality in which there is an interest prohibited by this article shall be null, void and wholly unenforceable.

CREDIT(S)

(Added L.1964, c. 946, § 2.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 804, NY GEN MUN § 804

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 804-a

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annots)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annots)

→ § 804-a. Certain interests prohibited

No member of the governing board, of a municipality shall have any interest in the development or operation of any real property located within Nassau County and developed or operated by any membership corporation originally formed for purposes among which are the following:

1. to plan for, advise, recommend, promote and in all ways encourage, alone or in concert with public officials and bodies and interested local associations, the development and establishment of any lands in Nassau County publically [FN1] owned with particular emphasis on industrial, business, commercial, residential and public uses, the augmentation [FN1] of public revenues and furtherance of the public interest of the citizens of Nassau County;
2. to conduct studies to ascertain the needs of Nassau County as pertains to such publically [FN1] owned lands and supporting facilities and in Nassau County generally for the purpose of aiding the County of Nassau in attracting new business, commerce and industry to it and in encouraging the development and retention of business, commerce and industry;
3. to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities and instruct or train individuals to improve or develop their capabilities for such jobs;
4. to implement and engage itself in plans of development of such publically [FN1] owned lands and other areas in connection with private companies and citizens and with public bodies and officials, and to participate in such operations, leaseholds, loans, ownerships with respect to land, buildings or public facilities or interest therein as may be lawful and desirable to effectuate its corporate purposes and the best interests of the people of Nassau County.

CREDIT(S)

(Added L.1970, c. 720, § 1.)

[FN1] So in original.

McKinney's General Municipal Law § 804-a, NY GEN MUN § 804-a

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copr © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 805

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 805. Violations

Any municipal officer or employee who willfully and knowingly violates the foregoing provisions of this article shall be guilty of a misdemeanor.

CREDIT(S)

(Added L.1964, c. 946, § 2.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 805, NY GEN MUN § 805

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 805-a

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated CurrentnessGeneral Municipal Law (Refs & Amos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Amos)

→ § 805-a. Certain action prohibited

1. No municipal officer or employee shall:
 - a. directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in 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;
 - b. disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interests;
 - c. 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; or
 - d. 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 to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
2. In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate this section may be fined, suspended or removed from office or employment in the manner provided by law.

CREDIT(S)

(Added L.1970, c. 1019, § 2; amended L.1987, c. 813, § 21.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1987, c. 813 legislation

Amendment by L.1987, c. 813, eff. Dec. 31, 1987, pursuant to § 26 of L.1987, c. 813, as amended, set out as a note under General Municipal Law § 813.

McKinney's General Municipal Law § 805-a, NY GEN MUN § 805-a

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

McKinney's General Municipal Law § 805-a

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 805-b

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness
General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 805-b. Solemnization of marriages

Notwithstanding any statute, law or rule to the contrary, no public officer listed in section eleven of the domestic relations law shall be prohibited from accepting any gift or benefit having a value of seventy-five dollars or less, whether in the form of money, property, services or entertainment, for the solemnization of a marriage by such public officer at a time and place other than the public officer's normal public place of business, during normal hours of business. For the purpose of this section, a town or village judge's normal hours of business shall mean those hours only which are officially scheduled by the court for the performing of the judicial function.

CREDIT(S)

(Added L.1983, c. 433, § 1; amended L.1990, c. 238, § 1.)

McKinney's General Municipal Law § 805-b, NY GEN MUN § 805-b

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 806

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 806. Code of ethics

1. (a) The governing body of each county, city, town, village and school district shall and the governing body of any other municipality may by local law, ordinance or resolution adopt a code of ethics setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them. Such code shall provide standards for officers and employees with respect to disclosure of interest in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and such other standards relating to the conduct of officers and employees as may be deemed advisable. Such codes may regulate or prescribe conduct which is not expressly prohibited by this article but may not authorize conduct otherwise prohibited. Such codes may provide for the prohibition of conduct or disclosure of information and the classification of employees or officers.

(b) Effective on and after January first, nineteen hundred ninety-one, such codes of political subdivisions, as defined in section eight hundred ten of this article, may contain provisions which require the filing of completed annual statements of financial disclosure with the appropriate body, as defined in section eight hundred ten of this article. Nothing herein shall be construed to restrict any political subdivision or any other municipality from requiring such a filing prior to January first, nineteen hundred ninety-one. Other than as required by subdivision two of section eight hundred eleven of this article, the governing body of any such political subdivision or other municipality may at any time subsequent to the effective date of this paragraph (b), adopt a local law, ordinance or resolution pursuant to subdivision one of section eight hundred eleven of this article and any such political subdivision or municipality, acting by its governing body, may take such other action as is authorized in such subdivision. Any political subdivision or other municipality to which all of the provisions of section eight hundred twelve of this article apply may elect to remove itself from the ambit of all (but not some) provisions of such section in the manner authorized in subdivision three of such section eight hundred twelve. In such event any such political subdivision or municipality shall be subject to certain conditions and limitations set forth in paragraphs (a), (b) and (c) of such subdivision three which shall include, but not be limited to, the promulgation of a form of an annual statement of financial disclosure described in subdivision one of such section eight hundred eleven.

2. The chief executive officer of a municipality adopting a code of ethics shall cause a copy thereof to be distributed to every officer and employee of his municipality. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.

3. Until January first, nineteen hundred ninety-one, the clerk of each municipality shall file in the office of the state comptroller and on or after January first, nineteen hundred ninety-one, the clerk of each municipality and of each political subdivision, as defined in section eight hundred ten of this article, shall file with the temporary state commission on local government ethics established by section eight hundred thirteen of this article, if such temporary state commission be in existence, and in all events shall maintain as a record subject to public inspection:

(a) a copy of any code of ethics or any amendments to any code of ethics adopted within thirty days after the adoption of such code or such amendment,

(b) a statement that such municipality or political subdivision has established a board of ethics, in accordance with

McKinney's General Municipal Law § 806

section eight hundred eight and/or pursuant to other law, charter, code, local law, ordinance or resolution, and the composition of such board, within thirty days after the establishment of such board.

(c) a copy of the form of annual statement of financial disclosure described in subdivision one of section eight hundred eleven of this article and either a statement of the date such annual statement form was promulgated by local law, ordinance or resolution of the governing body, if adopted pursuant to subparagraph (i) of paragraph (a) of subdivision one of section eight hundred eleven of this article, or a statement that the governing body has, by local law, ordinance or resolution, resolved to continue the use of an authorized form of annual statement of financial disclosure in use on the date such local law, ordinance or resolution is adopted, if adopted pursuant to subparagraph (ii) of paragraph (a) of subdivision one of section eight hundred eleven of this article, and if as of January first, nineteen hundred ninety-one, no such form was promulgated and no such resolve was made to continue using an existing annual statement form, a statement that the provisions of section eight hundred twelve of this article apply or that it is a municipality which is not subject to the provisions of section eight hundred twelve of this article because it is not a political subdivision as defined in section eight hundred ten of this article.

(d) on or before the fifteenth day of February in each year, the comptroller or the temporary state commission on local government ethics if such commission be in existence, or the clerk of the municipality or political subdivision during or after calendar year nineteen hundred ninety-one if such commission not be in existence, as the case may be, shall submit to the legislature a report listing the name of each county, city, town, village and school district which has as of the thirty-first day of December next preceding, failed to so file with him or with it, as the case may be, a code of ethics, or in the case of a filing by the clerk of the municipality or political subdivision, stating whether or not the municipality or political subdivision has in effect as of the filing date, a code of ethics.

(e) not later than April first, nineteen hundred ninety-one, the comptroller shall submit to the temporary state commission on local government ethics:

(i) a report that sets forth, (A) the name of each political subdivision, as such term is defined in section eight hundred ten of this article, the governing body of which has elected to satisfy the requirements of subdivision one of section eight hundred eleven of this article by continuing to use the annual statement form in existence at the time such election is made as authorized by subdivision one of section eight hundred eleven of this article, and (B) the name of each political subdivision, as so defined, other than those listed in clause (A) of this subparagraph (i), that timely promulgated an annual statement form of financial disclosure in accordance with subdivision one of section eight hundred eleven of this article, and (C) in a separate category, sets forth the name of those political subdivisions that failed to continue using its existing form or to promulgate a form and which, therefore, by operation of subdivision two of section eight hundred eleven of this article have become subject, as of January first, nineteen hundred ninety-one, to the provisions of section eight hundred twelve of this article. The comptroller shall, at the same time such report is submitted to the temporary state commission on local government ethics, notify each political subdivision which is contained in the latter category that it is subject to section eight hundred twelve of this article; and

(ii) a copy of the most recent filing by all municipalities and political subdivisions, made pursuant to paragraphs (a), (b), (c) and (d) of this subdivision.

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1969, c. 646, § 2; L.1970, c. 1019, § 3; L.1987, c. 813, §§ 10, 11.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1987, c. 813 legislation

Amendment by L.1987, c. 813, eff. Jan. 1, 1989, pursuant to § 26 of L.1987, c. 813, as amended, set out as a note under General Municipal Law § 813.

McKinney's General Municipal Law § 806

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 806, NY GEN MUN § 806

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 807

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→ § 807. Posting of statute

The chief executive officer of each municipality shall cause a copy of this article to be kept posted in each public building under the jurisdiction of his municipality in a place conspicuous to its officers and employees. Failure to post any such copy shall have no effect on the duty of compliance with this article, nor with the enforcement of the provisions thereof.

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1970, c. 1019, § 4.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 807, NY GEN MUN § 807

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 808

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Anns)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Anns)

→ § 808. Boards of ethics

1. The governing body of any county may establish a county board of ethics and appropriate moneys for maintenance and personal services in connection therewith. The members of such board of ethics shall be appointed by such governing body except in the case of a county operating under an optional or alternative form of county government or county charter, in which case the members shall be appointed by the county executive or county manager, as the case may be, subject to confirmation by such governing body. Such board of ethics shall consist of at least three members, a majority of whom shall not be officers or employees of such county or municipalities wholly or partially located in such county and at least one of whom shall be an elected or appointed officer or employee of the county or a municipality located within such county. The members of such board shall receive no salary or compensation for their services as members of such board and shall serve at the pleasure of the appointing authority.

2. The board shall render advisory opinions to officers and employees of municipalities wholly or partly within the county with respect to this article and any code of ethics adopted pursuant hereto. Such advisory opinions shall be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the board may prescribe and shall have the advice of counsel employed by the board, or if none, the county attorney. In addition, it may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon the request of the governing body of any municipality in the county.

3. The governing body of any municipality other than a county may establish a local board of ethics and, where such governing body is so authorized, appropriate moneys for maintenance and personal services in connection therewith. A local board shall have all the powers and duties of and shall be governed by the same conditions as a county board of ethics, except that it shall act only with respect to officers and employees of the municipality that has established such board or of its agencies. The members of a local board shall be appointed by such person or body as may be designated by the governing body of the municipality to serve at the pleasure of the appointing authority and such board shall consist of at least three members, a majority of whom are not otherwise officers or employees of such municipality. Such board shall include at least one member who is an elected or appointed municipal officer or employee.

4. The county board of ethics shall not act with respect to the officers and employees of any municipality located within such county or agency thereof, where such municipality has established its own board of ethics, except that the local board may at its option refer matters to the county board.

5. A board of ethics of a political subdivision (as defined in section eight hundred ten of this article) and of any other municipality, which is required by local law, ordinance or resolution to be, or which pursuant to legal authority, in practice is, the repository for completed annual statements of financial disclosure shall notify the temporary state commission on local government ethics if such commission be in existence and if not, shall file a statement with the clerk of its municipality, that it is the authorized repository for completed annual statements of financial disclosure and that on account thereof, such completed statements will be filed with it and not with the commission. Should any local law, ordinance or resolution be adopted which provides for the filing of such completed annual statements with the temporary state commission on local government ethics instead of with such board of ethics, such board of ethics shall notify the temporary state commission on local government ethics of that fact.

McKinney's General Municipal Law § 808

CREDIT(S)

(Added L.1964, c. 946, § 2; amended L.1965, c. 1043, § 5; L.1970, c. 1019, § 5; L.1987, c. 813, § 12.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1987, c. 813 legislation

Amendment by L.1987, c. 813, eff. Jan. 1, 1989, pursuant to § 26 of L.1987, c. 813, as amended, set out as a note under General Municipal Law § 813.

L.1970, c. 1019 legislation

L.1970, c. 1019, § 6, provided:

"This act [affecting this section, sections 802, 805-a, 807, and 808] shall take effect on the first day of July, nineteen hundred seventy but any duly constituted board of ethics of a county, city, town or village in existence as of such date may continue to function as a board of ethics hereunder until replaced by a new board of ethics established pursuant to this act, but in no event later than the first day of January, nineteen hundred seventy-one."

L.1964, c. 946 legislation

For legislative findings, see § 1 of L.1964, c. 946, set out as a note at Article 18.

For information regarding laws superseded, see § 13 of L.1964, c. 946, set out as a note at Article 18.

McKinney's General Municipal Law § 808, NY GEN MUN § 808

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 809

P

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annots)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annots)

→ § 809. Disclosure in certain applications

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

(a) is the applicant, or

(b) is an officer, director, partner or employee of the applicant, or

(c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or

(d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.

3. In the county of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four of section two of the election law. [FN1]

4. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

CREDIT(S) (Added L.1969, c. 646, § 3; amended L.1970, c. 825, § § 1, 2.)

[FN1] Now Election Law § 1-104, subd. 5.

McKinney's General Municipal Law § 809, NY GEN MUN § 809

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

McKinney's General Municipal Law § 810

P

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated CurrentnessGeneral Municipal Law (Refs & Annots)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annots)

→ § 810. Additional definitions

As used in sections eight hundred eleven, eight hundred twelve and eight hundred thirteen of this article:

1. The term "political subdivision" shall mean a county, city, town or village having a population of fifty thousand or more and shall include a city with a population of one million or more.
2. The term "local elected official" shall mean an elected official of the political subdivision, except judges or justices of the unified court system.
3. The term "local officer or employee" shall mean the heads (other than local elected officials) of any agency, department, division, council, board, commission, or bureau of a political subdivision and their deputies and assistants, and the officers and employees of such agencies, departments, divisions, boards, bureaus, commissions or councils who hold policy-making positions, as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the appropriate body during the month of February; except that the term "local officer or employee" shall not mean a judge, justice, officer or employee of the unified court system. Members, officers and employees of each industrial development agency and authority shall be deemed officers or employees of the county, city, village or town for whose benefit such agency or authority is established.
4. The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state.
5. The term "spouse" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (a) a judicial order, decree or judgment, or (b) a legally binding separation agreement.
6. The term "local political party official" shall mean:
 - (a) any chairman of a county committee elected pursuant to section 2-112 of the election law, or his or her successor in office, who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more;
 - (b) that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:
 - (i) the principal political, executive and administrative officer of the county committee;

McKinney's General Municipal Law § 810

- (ii) the power of general management over the affairs of the county committee;
 - (iii) the power to exercise the powers of the chairman of the county committee as provided for in the rules of the county committee;
 - (iv) the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;
 - (v) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law or for the purpose of filling a vacancy or vacancies in the county committee which exist by reason of an increase in the number of election districts within the county occasioned by a change of the boundaries of one or more election districts, taking effect after the election of its members, or for the purpose of determining the districts that the elected members shall represent until the next election at which such members of such committee are elected; provided, however, that in no event shall such power encompass the power of a chairperson of an assembly district committee or other district committee smaller than a county and created by the rules of the county committee, to call a meeting of such district committee for such purpose;
 - (vi) the power to direct the treasurer of the party to expend funds of the county committee; or
 - (vii) the power to procure from one or more bank accounts of the county committee the necessary funds to defray the expenses of the county committee; and
- (c) the city, town or village chairman or leader of a city, town or village committee of a party as the term party is defined in section 1-104 of the election law, but only with respect to a city, town or village having a population of fifty thousand or more, and only if such chairman or leader received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more. The term chairman or leader is intended to refer to the person who performs the functions and duties of the chief official of a party in the city, town or village by whatever title designated.

The terms "constituted committee" and "political committee", as used in this subdivision six, shall have the same meanings as those contained in section 14-100 of the election law.

7. The term "relative" shall mean such individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

8. The term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.

9. The term "appropriate body" or "appropriate bodies" shall mean:

(a) in the case of any political subdivision which has created or hereafter creates a board of ethics which is in existence at the time an annual statement of financial disclosure is due, and which has been designated by local law, ordinance or resolution to be the repository for such completed statements, such board of ethics;

(b) in the case of any political subdivision which has created or hereafter creates a board of ethics which is in existence at the time an annual statement of financial disclosure is due, and which has not been designated by local law, ordinance or resolution to be the repository for such completed statements, the temporary state commission on local government ethics;

(c) in the case of any political subdivision for which no board of ethics is in existence at the time an annual

McKinney's General Municipal Law § 810

statement of financial disclosure is due, the temporary state commission on local government ethics.

10. The term "regulatory agency" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of the public officers law.

11. The term "ministerial matter" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of the public officers law.

12. The term "local agency" shall mean:

(a) any county, city, town, village, school district or district corporation, or any agency, department, division, board, commission or bureau thereof; and

(b) any public benefit corporation or public authority not included in the definition of a state agency.

CREDIT(S)

(Added L.1987, c. 813, § 13; amended L.1993, c. 356, § 2.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

L.1993, c. 356 legislation

Amendment by L.1993, c. 356, eff. Oct. 19, 1993, but not to apply to projects for which an agency, through the issuance of its bonds, execution of leases, or the passage of an inducement resolution or bond resolution, has authorized any assistance prior to the date on which this act shall have become a law whether or not such projects are thereafter modified, pursuant to L.1993, c. 356, § 38, set out as a note under General Municipal Law § 854.

McKinney's General Municipal Law § 810, NY GEN MUN § 810

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 811

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→§ 811. Promulgation of form of annual statement of financial disclosure; authority of governing body with respect to persons subject thereto

1. (a) The governing body of each political subdivision may, not later than January first, nineteen hundred ninety-one, and the governing body of any other municipality may at any time subsequent to the effective date of this section, adopt a local law, ordinance, or resolution: (i) wherein it promulgates a form of annual statement of financial disclosure which is designed to assure disclosure by municipal officers and employees, which for the purposes of this section, the definition for which shall be modified so as to also include a city with a population of one million or more, and (in the case of a political subdivision or any other county, city, town or village) which is designed to assure disclosure by local elected officials and/or by local political party officials of such financial information as is determined necessary by the governing body, or (ii) wherein it resolves to continue the use of an authorized form of annual statement of financial disclosure in use on the date such local law, ordinance or resolution is adopted. In either event, such local law, ordinance or resolution if and when adopted shall specify by name of office or by title or classification those municipal officers and employees and (in the case of a political subdivision or any other county, city, town or village) those local elected officials and/or those local political party officials which shall be required to complete and file such annual statement. In a city with a population of one million or more, such local law, ordinance or resolution shall be at least as stringent in scope and substance as the provisions of section eight hundred twelve of this article.

(b) The governing body of a political subdivision or any other county, city, town or village, which requires the completion and filing of either of such forms of annual statements of financial disclosure by local or municipal officers and employees and/or by local elected officials shall have the power, if it so chooses, to require the completion and filing of such annual statements of financial disclosure by local political party officials as if such officials were officers or employees of such county, city, town or village, provided however, that a person who is subject to the filing requirements of both subdivision two of section seventy-three-a of the public officers law and of this subdivision may satisfy the requirements of this subdivision by filing a copy of the statement filed pursuant to section seventy-three-a of the public officers law with the appropriate body, as defined in section eight hundred ten of this article, on or before the filing deadline provided in such section seventy-three-a, notwithstanding the filing deadline otherwise imposed by this subdivision.

(c) The governing body of a political subdivision or any other county, city, town or village which requires any local or municipal officer or employee or any local elected official or any local political party official to complete and file either of such annual statements of financial disclosure shall have, possess, exercise and enjoy all the rights, powers and privileges attendant thereto which are necessary and proper to the enforcement of such requirement, including but not limited to, the promulgation of rules and regulations pursuant to local law, ordinance or resolution, which rules or regulations may provide for the public availability of items of information to be contained on such form of statement of financial disclosure, the determination of penalties for violation of such rules or regulations, and such other powers as are conferred upon the temporary state commission on local government ethics pursuant to section eight hundred thirteen of this article as such local governing body determines are warranted under the circumstances existing in its county, city, town or village.

(d) The local law, ordinance or resolution, if and when adopted, shall provide for the annual filing of completed statements with either the temporary state commission on local government ethics or with the board of ethics of the

McKinney's General Municipal Law § 811

political subdivision or other municipality and shall contain the procedure for filing such statements and the date by which such filing shall be required. If the board of ethics is designated as the appropriate body, then such local law, ordinance or resolution shall confer upon the board appropriate authority to enforce such filing requirement, including the authority to promulgate rules and regulations of the same import as those which the temporary state commission on local government ethics enjoys under section eight hundred thirteen of this article. Any such local law, ordinance or resolution shall authorize exceptions with respect to complying with timely filing of such disclosure statements due to justifiable cause or undue hardship. The appropriate body shall prescribe rules and regulations related to such exceptions with respect to extensions and additional periods of time within which to file such statement including the imposition of a time limitation upon such extensions.

(e) Nothing herein shall be construed to prohibit a political subdivision or other municipality from promulgating the form of annual financial disclosure statement set forth in section eight hundred twelve of this article. Promulgation of the same form of annual financial disclosure statement set forth in section eight hundred twelve of this article shall not be deemed an automatic election to be subject to the provisions of such section.

2. In the event that a political subdivision fails by January first, nineteen hundred ninety-one to promulgate, or fails by such date to elect to continue using, a form of annual statement of financial disclosure in the manner authorized in subdivision one of this section then the provisions of section eight hundred twelve of this article shall apply on and after such date to any such political subdivision subject to the provisions of subdivision three of such section eight hundred twelve.

CREDIT(S)

(Added L.1987, c. 813, § 14.)

McKinney's General Municipal Law § 811, NY GEN MUN § 811

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 812

C

Effective: May 18, 2004

McKinney's Consolidated Laws of New York Annotated CurrentnessGeneral Municipal Law (Refs & Annots)

Chapter 24. Of the Consolidated Laws

Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annots)

→ § 812. Financial disclosure for local elected officials and certain officers and employees of counties, cities, towns and villages

1. (a) Any political subdivision or other county, city, town or village to which all of the provisions of this section are made applicable, whether as the result of the provisions contained in subdivision two of section eight hundred eleven of this article or as a result of an election to be subject to the provisions of this section as permitted by subdivision two of this section, shall require (i) each of its local elected officials and local officers and employees; (ii) each local political party official and (iii) each candidate for local elected official with respect to such political subdivision, to file an annual statement of financial disclosure containing the information and in the form set forth in subdivision five of this section except that disclosure requirements for assessors who are not covered by this article shall be governed by the requirements of section three hundred thirty-six of the real property tax law. Such statement shall be filed on or before the fifteenth day of May with respect to the preceding calendar year, except that:

(i) a person who is subject to the reporting requirements of this subdivision and who timely filed with the internal revenue service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure, which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;

(ii) a person who is required to file an annual financial disclosure statement with the temporary state commission on local government ethics, and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations on the subject adopted pursuant to paragraph c of subdivision nine of section eight hundred thirteen of this article, shall file such statement within the additional period of time granted;

(iii) candidates for local elected official who file designating petitions for nomination at a primary election shall file such statement within seven days after the last day allowed by law for the filing of designating petitions naming them as candidates for the next succeeding primary election;

(iv) candidates for independent nomination for local elected official who have not been designated by a party to receive a nomination shall file such statement within seven days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates for local elected official in the next succeeding general or special or village election; and

v) candidates for local elected official who receive the nomination of a party for a special election or who receive the nomination of a party other than at a primary election (whether or not for an uncontested office) shall file such statement within seven days after the date of the meeting of the party committee at which they are nominated.

McKinney's General Municipal Law § 812

(b) As used in this subdivision, the terms "party", "committee" (when used in conjunction [FN1] with the term "party"), "designation", "primary", "primary election", "nomination", "independent nomination", "ballot" and "uncontested office" shall have the same meanings as those contained in section 1-104 of the election law.

(c) Such statement shall be filed with the appropriate body, as defined in section eight hundred ten of this article.

(d) The appropriate body, as defined in section eight hundred ten of this article, shall obtain from the "board of elections", as such term is defined in section 1-104 of the election law, lists of all candidates for local elected official, and from such lists, shall determine and publish lists of those candidates who have not, within ten days after the required date for filing such statement, filed the statement required by this subdivision.

(e) Local political party officials and any person required to file such statement who commences employment after May fifteenth of any year shall file such statement within thirty days after commencing employment or of taking the position of local political party official, as the case may be.

(f) A person who is subject to the filing requirements of both subdivision two of section seventy-three-a of the public officers law and of this subdivision may satisfy the requirements of this subdivision by filing a copy of the statement filed pursuant to section seventy-three-a of the public officers law with the appropriate body, as defined in section eight hundred ten of this article, on or before the filing deadline provided in such section seventy-three-a, notwithstanding the filing deadline otherwise imposed by this subdivision.

(g) A person who is subject to the filing requirements of this subdivision from more than one political subdivision within the same county may satisfy the requirements of this subdivision by filing only one annual statement of financial disclosure with the appropriate body (as is required in that county) for the county in which such political subdivisions are located or if such political subdivisions cross one or more county boundary lines, then such single filing may be made for any of the counties in which one of such political subdivisions is located provided, however, that the appropriate bodies (as required by such other counties) are notified of the name of the county of such compliance by the person who is subjected to the filing requirements of this subdivision, within the time limit for filing specified in this subdivision.

(h) A local elected official who is simultaneously a candidate for local elected official shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds such local elected office.

(i) A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this subdivision by complying with the earliest applicable deadline only.

2. The governing body of a county, city, town or village having a population of less than fifty thousand may by local law or ordinance elect to be subject to the provisions of this section. In such event, any such city, county, town or village shall be deemed to be a political subdivision under this section.

3. Any political subdivision or other county, city, town or village to which all of the provisions of this section are made applicable, whether as a result of the provisions contained in subdivision two of section eight hundred eleven of this article or as a result of an election to be subject to the provisions of this section as permitted by subdivision two of this section, may elect to remove itself from the ambit of all (but not some) provisions of this section (other than this subdivision) by adopting a local law, ordinance or resolution specifically referring to the authority conferred by this subdivision. Provided, however, that the terms of such local law, ordinance or resolution shall be subject to the following conditions and limitations:

(a) Such local law, ordinance or resolution must provide for the promulgation of a form of an annual statement of financial disclosure described in subdivision one of section eight hundred eleven of this article for use with respect to information the governing body requires to be reported for the calendar year next succeeding the year in which such local law, ordinance or resolution is adopted and for use with respect to information required to be reported for subsequent calendar years; and shall provide for the filing of completed statements with either the temporary state commission on local government ethics or with the board of ethics of the political subdivision or other municipality, as specified in subdivision one of section eight hundred eleven of this article.

McKirney's General Municipal Law § 812

(b) Such removal shall not be effective with respect to the annual financial disclosure statement for the calendar year in which the local law, ordinance or resolution is adopted (the filing of which statement is due on May fifteenth of the next succeeding year with certain exceptions), nor shall such removal be effective with respect to any required annual financial disclosure statement for the immediately preceding calendar year (the filing of which statement is due on May fifteenth (with certain exceptions) of the calendar year in which such local law, ordinance or resolution is adopted), nor shall such removal be effective with respect to any other preceding year but such removal shall apply first to the statement which would have been due on May fifteenth (with certain exceptions) of the second year next succeeding the year in which such local law, ordinance or resolution is adopted, and such removal shall apply thereafter to subsequent statements otherwise due pursuant to this section.

(c) Such removal shall not affect the power to impose, or the imposition of, a penalty for failure to file, or for false filing, of any required annual financial disclosure statement.

(d) The local law, ordinance or resolution referred to in paragraph (a) of this subdivision or any other such local law, ordinance or resolution so adopted may make provision for any other right, power or privilege granted by subdivision one of such section eight hundred eleven.

4. Nothing contained in this section shall be construed as precluding the governing body of a political subdivision from requiring additional and/or more detailed items of financial disclosure than are set forth in subdivision five hereinbelow.

5. The annual statement of financial disclosure shall contain the information and shall be in the form set forth hereinbelow:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FOR (Insert Name of Political Subdivision)-(For calendar year _____)

- 1. Name _____
- 2. (a) Title of Position _____
- (b) Department, Agency or other Governmental Entity _____
- (c) Address of Present Office _____
- (d) Office Telephone Number _____
- 3. (a) Marital Status _____. If married, please give spouse's full name including maiden name where applicable.
- (b) List the names of all unemancipated children.
- _____
- _____
- _____
- _____

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories: Category A--under \$5,000; Category B--\$5,000 to under \$20,000; Category C-- \$20,000 to under \$60,000; Category D--\$60,000 to under \$100,000; Category E-- \$100,000 to under \$250,000; and Category F-- \$250,000 or over. A reporting individual shall indicate the Category by letter only.

For the purposes of this statement, anywhere the term "local agency" shall appear such term shall mean a local agency, as defined in section eight hundred ten of the general municipal law, of the political subdivision for which this financial disclosure statement has been filed.

- 4. (a) List any office, trusteeship, directorship, partnership, or position of

McKinsey's General Municipal Law § 812

any nature including honorary positions, if known, and excluding membership positions, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York or (insert name of political subdivision). If said entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency
----------	--------------	-----------------------

- (b) List any office, trusteeship, directorship, partnership, or position of any nature including honorary positions, if known, and excluding membership positions, whether compensated or not, held by the spouse or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York. If said entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency
----------	--------------	-----------------------

5. (a) List the name, address and description of any occupation, employment, trade, business or profession engaged in by the reporting individual. If such activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency
----------	--------------------------------	-------------	-----------------------

- (b) If the spouse or unemancipated child of the reporting individual was engaged in any occupation, employment, trade, business or profession which activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name, address and

McKinney's General Municipal Law § 812

description of such occupation, employment, trade, business or profession and the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency
----------	--------------------------------	-------------	-----------------------

6. List any interest, in excess of \$1,000, excluding bonds and notes, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by a state or local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse or such child to such entity and the interest in such contract. Do not list any interest in any such contract on which final payment has been made and all obligations under the contract except from guarantees and warranties have been performed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties. Do not list any interest in a contract made or executed by a state agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

Self, Spouse or Child	Entity Which Held Interest in Contract	Relationship to Entity and Interest in Contract	Contracting State or Local Agency	Category of Value of Contract
-----------------------	--	---	-----------------------------------	-------------------------------

7. List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party committee, or as a political party district leader. The term "party" shall have the same meaning as "party" in the election law. The term "political organization" means any party or independent body as defined in the election law or any organization that is affiliated with or a subsidiary of a party or independent body.

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, give a general description of the principal subject areas of matters undertaken by such individual. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation. Do not list the name

McKinney's General Municipal Law § 812

of the individual clients, customers or patients.

(b) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

9. List each source of gifts, excluding campaign contributions, in excess of \$1,000, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child from the same donor, excluding gifts from a relative. Include the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 10. Indicate the value and nature of each such gift.

Self, Spouse or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift
--------------------------	---------------	---------	----------------	---------------------------------

10. Identify and briefly describe the source of any reimbursements for expenditures, excluding campaign expenditures and expenditures in connection with official duties reimbursed by the political subdivision for which this statement has been filed, in excess of \$1,000 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences, or factfinding events. The term "reimbursements" does not include gifts reported under item 9.

Source	Description
--------	-------------

11. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans other than retirement plans of the state of New York or the city of New York, and deferred compensation plans established in accordance with the internal revenue code, in which the reporting individual held a

McKinney's General Municipal Law § 812

beneficial interest in excess of \$1,000 at any time during the preceding year. Do not report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative.

Identity

Category of Value *

* The value of such interest shall be reported only if reasonably ascertainable.

12. (a) Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence).

- (b) Describe the parties to and the terms of any agreement providing for continuation of payments or benefits to the reporting individual in excess of \$1,000 from a prior employer other than the political subdivision for which this statement is filed. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance; buy-out agreements; severance payments; etc.)

13. List below the nature and amount of any income in excess of \$1,000 from each source for the reporting individual and such individual's spouse for the taxable year last occurring prior to the date of filing. Nature of income includes, but is not limited to, salary for government employment, income from other compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in the case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

Self/ Spouse	Source	Nature	Category of Amount
--------------	--------	--------	--------------------

McKinney's General Municipal Law § 812

14. List the sources of any deferred income in excess of \$1,000 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, other than deferred compensation reported in item 11 hereinabove. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.

Source	Category of Amount
--------	--------------------

15. List each assignment of income in excess of \$1000, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of \$1000, which would otherwise be required to be reported herein and is not or has not been so reported.

Item Assigned or Transferred	Assigned or Transferred to	Category of Value
------------------------------	----------------------------	-------------------

16. List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in excess of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed only if the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership if the reporting person or the reporting person's spouse holds more than five percent of the stock of a corporation in which the stock is publicly traded or more than ten percent of the stock of a corporation in which the stock is not publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item the term "securities" shall mean bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits and such other evidences of indebtedness and certificates of

McKinney's General Municipal Law § 812

interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in item 8 (a) or if the security is corporate stock, not publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

Self/ Spouse	Issuing Entity	Type of Security	Category of Market Value as of the close of the taxable year last occurring prior to the filing of this statement	Percentage of corporate stock owned or controlled
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

17. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in excess of \$1,000 is held by the reporting individual or the reporting individual's spouse. Also list real property owned for investment purposes by a corporation more than fifty percent of the stock of which is owned or controlled by the reporting individual or such individual's spouse. Do not list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

Self/ Spouse/ Other Party	Location	Size	General Nature	Acquisition Date	Category of Market Value	Percentage of Ownership
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

18. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in excess of \$1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____

McKinney's General Municipal Law § 812

19. List below all liabilities of the reporting individual and such individual's spouse, in excess of \$5,000 as of the date of filing of this statement, other than liabilities to a relative. Do not list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Revolving charge account information shall only be set forth if liability thereon is in excess of \$5,000 at the time of filing. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount

The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

 (Signature of Reporting Individual) Date (month/day/year)

6. A reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the appropriate body, as such term is defined in section eight hundred ten of this article. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the board of ethics of the political subdivision or other municipality may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. Each appropriate body, as such term is defined in section eight hundred ten of this article, shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural

McKinney's General Municipal Law § 812

mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the appropriate body, pursuant to article seventy-eight of the civil practice law and rules.

CREDIT(S)

(Added L.1987, c. 813, § 15; amended L.2004, c. 85, § 1, eff. May 18, 2004.)

[FN1] So in original. (word misspelled.)

McKinney's General Municipal Law § 812, NY GEN MUN § 812

Current through L.2005, chapter 766 and L.2006, chapters 1 and 4 to 6.

Copyright © 2006 Thomson/West

END OF DOCUMENT

McKinney's General Municipal Law § 813

C

Effective: [See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

■ Article 18. Conflicts of Interest of Municipal Officers and Employees (Refs & Annos)

→§ 813. Temporary state commission on local government ethics; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement

<[Section expired Dec. 31, 1992, pursuant to L.1987, c. 813, § 26]>

1. There is established a temporary state commission on local government ethics which shall consist of nine members and shall have and exercise the powers and duties set forth in this section.
2. The members of the commission shall be appointed by the governor, provided, however, that one member shall be appointed on the nomination of the temporary president of the senate; one on the nomination of the minority leader of the senate; one on the nomination of the speaker of the assembly; and one on the nomination of the minority leader of the assembly. Of the five members appointed by the governor without prior nomination, no more than three members shall belong to the same political party and at least three members shall not be public officers or employees or hold any public office, elected or appointed. No member shall hold office in any political party or be employed as a lobbyist.
3. Members of the commission shall serve for terms of four years.
4. The governor shall designate the chairman of the commission from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any five members of the commission may call a meeting.
5. Any vacancy occurring on the commission shall be filled within sixty days of its occurrence, by the governor, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.
6. Five members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy.
7. Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.
8. The members of the commission shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.
9. The commission shall:
 - a. Appoint an executive director who shall act in accordance with the policies of the commission. The commission may delegate authority, to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing and the specific powers to be delegated are enumerated;

McKinney's General Municipal Law § 813

- b. Appoint such other staff as are necessary to carry out its duties under this section;
- c. Adopt, amend, and rescind rules and regulations to govern procedures of the commission, which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted. The commission may utilize or modify such rules or regulations or adopt separate rules or regulations for the purposes of paragraph (d) of subdivision one of section eight hundred eleven of this article;
- d. Promulgate guidelines to assist appointing authorities in determining which persons hold policy-making positions for purposes of sections eight hundred eleven and eight hundred twelve of this article;
- e. Make available forms for annual statements of financial disclosure required to be filed pursuant to section eight hundred twelve of this article;
- f. Review completed financial disclosure statements in accordance with the provisions of sections eight hundred eleven, eight hundred twelve and this section, and in the case of a political subdivision which has elected to require the filing of completed statements with the commission, in accordance with the criteria established by duly adopted code of ethics, local law, ordinance or resolution, provided however, that the commission may delegate all or part of this review function to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the commission's delegation;
- g. Receive complaints alleging a violation of section eight hundred eleven or eight hundred twelve of this article or a violation of the criteria for reporting requirements established by duly adopted code of ethics, local law, ordinance or resolution with respect to political subdivisions which have elected to require the filing of completed statements with the commission;
- h. Permit any person required to file a financial disclosure statement to request the commission to delete from the copy thereof made available for public inspection one or more items of information, which may be deleted by the commission, after denial of a request for deletion made to the local government advisory council as provided in subdivision seventeen of this section, upon a finding by a majority of the total number of members of the commission without vacancy that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council;
- i. Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted by the commission, after denial of a request for exemption made to the local government advisory council as provided in subdivision seventeen of this section, upon a finding by a majority of the total number of members of the commission without vacancy that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision twelve of this section. The commission shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the advisory council;
- j. Advise and assist any local agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former local elected officials, local political party officials and local officers and employees;

McKinney's General Municipal Law § 813

k. Permit any person who has not been determined by his or her appointing authority to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

- (i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in section seventy-three of the public officers law;
- (ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;
- (iii) the obtaining of grants of money or loans; or
- (iv) the adoption or repeal of any rule or regulation having the force and effect of law;

l. Prepare an annual report to the governor and the legislature summarizing the activities of the commission and recommending changes in the laws governing the conduct of local elected officials, local political party officials and local officers and employees. In addition, such report shall list the names of political subdivisions which have created boards of ethics, adopted codes of ethics and adopted forms of annual statements of financial disclosure;

m. Act as a repository for completed financial disclosure forms filed pursuant to section eight hundred eleven or eight hundred twelve of this article;

n. Upon certification of a question by the public advisory council to the commission, as provided in paragraph (k) of subdivision seventeen of this section, the commission may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section.

10. The commission, or the executive director and staff of the commission if responsibility therefor has been delegated, shall inspect all financial disclosure statements filed with the commission to ascertain whether any person subject to the reporting requirements of section eight hundred eleven or eight hundred twelve of this article, and in the case of a political subdivision which has elected to require the filing of completed annual financial statements with the commission, subject to the reporting requirements contained in duly adopted code of ethics, local law, ordinance or resolution, has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section eight hundred eleven or eight hundred twelve of this article, or of duly adopted code of ethics, local law, ordinance or resolution, as the case may be.

11. If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; and (b) in the case of a local officer or employee, to the appointing authority for such person.

12. a. If a reporting person has filed a statement which reveals a possible violation of duly adopted code of ethics, local law, ordinance or resolution or of section eight hundred eleven or eight hundred twelve of this article, or the commission receives a sworn complaint alleging such a violation, or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the reporting person in writing, describe the possible or alleged violation of such code of ethics, local law, ordinance or resolution or of such section eight

McKinney's General Municipal Law § 813

~~hundred eleven~~ or ~~eight hundred twelve~~ of this article and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the commission thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The commission shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the commission determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any. All of the foregoing proceedings shall be confidential.

b. If the commission determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause: (i) to the reporting person; (ii) to the complainant if any; and (iii) in the case of a local officer or employee, to the appointing authority for such person.

13. A reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the temporary state commission on local government ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph h or paragraph i of subdivision nine of this section. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or commission denial of such a request shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the temporary state commission on local government ethics, pursuant to article seventy-eight of the civil practice law and rules.

14. A copy of any notice of delinquency or notice of reasonable cause sent pursuant to subdivisions eleven and twelve of this section shall be included in the reporting person's file and be available for public inspection.

15. Upon written request from any person who is subject to the jurisdiction of the commission, the commission shall render advisory opinions on the requirements of said provisions. An opinion rendered by the commission, until and unless amended or revoked, shall be binding on the commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense, in any criminal or civil action. Such requests shall be confidential, but the commission may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication.

16. In addition to any other powers and duties specified by law, the commission shall have the power and duty to:

a. Administer and enforce all the provisions of this section;

McKinney's General Municipal Law § 813

b. Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

17. (a) There is established within the temporary state commission on local government ethics a public advisory council which shall consist of five members and shall have and exercise the powers and duties set forth in this subdivision.

(b) The members of the public advisory council shall be appointed by the governor provided, however, that one member shall be appointed on the nomination of the temporary president of the senate and one member shall be appointed on the nomination of the speaker of the assembly. Of the three members appointed by the governor without prior nomination, no more than two members shall belong to the same political party and at least two members shall not be public officers or employees or hold any public office, elected or appointed. No member shall hold office in any political party or be employed as a lobbyist.

(c) Members of the public advisory council shall serve for terms of four years concurrent with the term of office of the governor.

(d) The governor shall designate the chairman of the public advisory council from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any three members of the public advisory council may call a meeting.

(e) Any vacancy occurring on the public advisory council shall be filled within sixty days of its occurrence, by the governor, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds.

(f) Three members of the public advisory council shall constitute a quorum, and the public advisory council shall have power to act by majority vote of the total number of members of the public advisory council without vacancy. Members of the council may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section after written notice and opportunity for reply.

(g) The members of the public advisory council shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

(h) The public advisory council shall: (1) Permit any person required to file a financial disclosure statement to request the public advisory council to delete from the copy thereof made available for public inspection one or more items of information which may be deleted upon a finding by a majority of the total number of members of the public advisory council without vacancy that the information which would otherwise be available for public inspection will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the public advisory council, in its notification of denial, shall inform the person of his or her right to appeal the public advisory council's determination to the commission pursuant to the commission's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section; and

(2) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted upon a finding by a majority of the total number of members of the public advisory council without vacancy that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the public advisory council, in its notification of denial, shall inform the person of his or her right to appeal the public advisory council's determination to the commission pursuant to the commission's rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision thirteen of this section.

McKinney's General Municipal Law § 813

(i) Pending any application for deletion or exemption either to the public advisory council or to the commission upon appeal of an adverse determination by the public advisory council, all information which is the subject or a part of the application shall remain confidential. Upon an adverse determination by the commission, the reporting individual may request, and upon such request the commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns his office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety.

(j) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph h or i of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the public advisory council.

(k) Where the council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will prevent undue repetition of such requests or undue complication, the council may certify the question to the commission for resolution and disposition in accordance with paragraph (n) of subdivision nine of this section.

18. a. Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to local law, ordinance or resolution or filed pursuant to section eight hundred eleven or eight hundred twelve of this article except the categories of value or amount which shall remain confidential and any other item of information deleted pursuant to paragraph h of subdivision nine of this section, as the case may be;

(2) notices of delinquency sent under subdivision eleven of this section;

(3) notices of reasonable cause sent under paragraph b of subdivision twelve of this section; and

(4) notices of civil assessments imposed under this section.

b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the commission shall be open to the public, except if expressly provided otherwise by the commission.

19. There is hereby established a local government advisory board to assist the commission in the performance of its powers and duties. Such board shall consist of twelve members to be appointed by the governor; four shall be appointed on the nomination of the state conference of mayors; four shall be appointed on the nomination of the state association of towns; and four shall be appointed on the nomination of the state association of counties. The board shall inform the commission of policies and concerns of local governments with respect to the administration of the provisions of this article and disseminate information to local governments with respect to the operations of the commission.

CREDIT(S)

(Added L. 1987, c. 813, § 16.)

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

Codification.

Section expired Dec. 31, 1992, pursuant to L. 1987, c. 813, § 26, as amended. The provisions of this section have been retained to facilitate the transfer, assignment and devolvement of powers, duties and functions from the

McKinney's General Municipal Law § 813

temporary state commission to the respective boards of ethics or other governing bodies.

L. 1987, c. 813 legislation

Section 26 of L. 1987, c. 813; amended L. 1988, c. 108, § 2, eff. June 8, 1988, provided:

"This act [which, in addition to the amendments set out below, amended Judiciary Law § 211 and enacted provisions set out as notes under Public Officers Law § 73] shall take effect immediately [Aug. 7, 1987], except that sections two through six [adding Public Officers Law § 73-a and amending Public Officers Law § § 73, 76, 78 and 88], section eight [amending Executive Law § 166], sections ten through sixteen [adding General Municipal Law § § 810, 811, 812 and 813 and amending General Municipal Law § § 806 and 808] and sections eighteen and nineteen [enacting provisions set out as notes under Public Officers Law § 73] of this act shall take effect January first, nineteen hundred eighty-nine; sections seven [adding Executive Law § 94] and nine [adding Legislative Law § 80 and repealing former Legislative Law § 80] of this act shall take effect June first, nineteen hundred eighty-eight except that paragraph g of subdivision nine and subdivisions twelve through fourteen of section ninety-four of the executive law, as added by section seven of this act, and paragraph g of subdivision eight and subdivisions eleven through thirteen of section eighty of the legislative law, as added by section nine of this act, shall take effect January first, nineteen hundred eighty-nine; and sections twenty through twenty-five [amending subd. 5 of Public Officers Law § 73 and General Municipal Law § 805-a; and amending the Lobbying Act and related provisions set out as notes under Legislative Law § 1] of this act shall take effect December thirty-first, nineteen hundred eighty-seven; provided, however, that:

"(a) the provisions of subdivision eight of section seventy-three of the public officers law, as renumbered and amended by section two of this act, with respect to legislative employees shall apply only to such employees who terminate their service or employment on or after January first, nineteen hundred eighty-nine;

"(b) the provisions of subdivision fifteen of section ninety-four of the executive law, as added by section seven of this act, and the provisions of subdivision fourteen of section eighty of the legislative law, as added by section nine of this act, shall apply to advisory opinions on the requirements of sections seventy-three, seventy-three-a and seventy-four of the public officers law as such sections exist on and after January first, nineteen hundred eighty-nine;

"(c) the provisions of section eight hundred thirteen of the general municipal law, as added by section sixteen of this act, shall remain in effect until and including December thirty-first, nineteen hundred ninety-two; upon the expiration of such provisions, the powers, duties and functions of the temporary state commission on local government ethics shall be transferred, assigned and devolved upon the respective board of ethics, if there be one, or if not, upon the governing body, of political subdivisions which are required by the provisions of sections eight hundred eleven and eight hundred twelve of the general municipal law, or which have elected pursuant to such sections, to be subject to the jurisdiction of such temporary state commission;

"(d) the amendments made by sections twenty-two, twenty-three and twenty-four [amending the Lobbying Act, set out as a note under Legislative Law § 1] of this act shall apply to reports required to be filed after December thirty-first, nineteen hundred eighty-seven; and

"(e) the provisions of sections twenty-two, twenty-three and twenty-four [amending the Lobbying Act, set out as a note under Legislative Law § 1] of this act shall remain in full force and effect for only so long as the lobbying act remains in effect pursuant to section five of chapter one thousand forty of the laws of nineteen hundred eighty-one as from time to time amended."

McKinney's General Municipal Law § 813, NY GEN MUN § 813

Current through L. 2005, chapter 766 and L. 2006, chapters 1 and 4 to 6.

TOWN OF BROOKHAVEN

DRESS GUIDELINES FOR PART TIME AND SEASONAL EMPLOYEES

All Part Time and Seasonal employees are required to follow the following dress guidelines. The purpose of dress guidelines is to promote a positive public image, encourage a productive work environment and comply with health and safety standards.

GUIDELINES

All Part Time and Seasonal employees are:

- to have a well-groomed, neat appearance.
- to dress in a manner that is normally acceptable in similar business establishments/environments (applicable to office staff).
- to wear Town issued clothing (if applicable). Clothing must be properly maintained and in original form. No alteration of Town issued apparel (cutting off of collars or sleeves, shortening of midriff, tie dying, etc.) is allowed.
- not to wear suggestive or provocative attire such as muscle shirts, transparent blouses, deep necklines, bare midriff tops, bare shoulders or back; all shirts must have sleeves. Shirts must be plain with Town logo or logo not to exceed 3" x 3".
- to wear shorts (permissible for outdoor employment) that are no higher than three inches above the knee (approximately mid-thigh). No cut-off shorts are permitted.

VIOLATIONS TO GUIDELINES

Violation to the Town's dress guidelines may result in the Town taking corrective action, which may require the employee to leave the premises. Continued violations of the dress guidelines may include further disciplinary action and possible termination of employment.

If you have any questions, please ask your department head or division director or call the Division of Personnel at 451-6444.

Driver's License Validation

In order to operate a Town-owned vehicle or any vehicle in the course of my employment, I must possess an appropriate and valid NYS Driver's License and I authorize the Town to confirm the validity of the New York State Driver's License with New York State Department of Motor Vehicles.



Town of Brookhaven Long Island

Division of Personnel

TO: All Part Time and Seasonal Town Employees

RE: Attendance

If you are unable to report to work on a day on which you are scheduled, you are required to contact your supervisor directly. Failure to follow this directive may result in disciplinary action up to and including termination.

Thank you.

Office of the Supervisor
Division of Personnel
One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-6633
• An Equal Opportunity Employer •
www.brookhaven.org



**Town of Brookhaven
Long Island**

DIVISION OF PERSONNEL

TO: ALL PART TIME AND SEASONAL TOWN EMPLOYEES

RE: REPORTING WORK-RELATED INJURIES

**PLEASE BE ADVISED THAT IN THE EVENT OF A WORK-RELATED INJURY,
YOU ARE REQUIRED TO ADVISE YOUR SUPERVISOR IMMEDIATELY. A TOWN OF
BROOKHAVEN INJURY AND ILLNESS INCIDENT REPORT FORM MUST BE
COMPLETED. FAILURE TO REPORT YOUR INJURY MAY RESULT IN DISCIPLINARY
ACTION AND THE POTENTIAL LOSS OF WORKERS' COMPENSATION BENEFITS.**

THANK YOU.

**Office of the Supervisor
Division of Personnel
One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-6633
• An Equal Opportunity Employer •
www.brookhaven.org**

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2020-0142
MEETING: FEBRUARY 13, 2020

ADOPTION OF FAMILY AND MEDICAL
LEAVE POLICY

WHEREAS, the Town Board of the Town of Brookhaven on May 3, 2005, adopted the Family and Medical Leave Policy; and

WHEREAS, the Town Board is now desirous of amending the "Family and Medical Leave Policy" in accordance with United States Department of Labor Opinion letters FMLA 2019-1-A and FMLA 2019-3-A as set forth in the attached.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Brookhaven that the Family and Medical Leave Policy are hereby amended as set forth in the attached, effective immediately.

ADOPTION OF FAMILY AND
MEDICAL LEAVE POLICY

BE IT HEREBY RESOLVED that the Town Board of the Town of Brookhaven hereby amends its Family and Medical Leave Policy in accordance with United States Department of Labor Opinion letters FMLA 2019-1-A and FMLA 2019-3-A as follows:

FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act of 1993 (FMLA) entitles employees to take up to twelve (12) weeks of job protected leave if the employees has a serious health condition as defined by the law and is unable to work; for the birth, adoption or foster placement of a child (leave must conclude within twelve months of the birth or placement) and/or to care for a family member who has a serious health condition (defined as spouse, child or parent).

In order to qualify for a leave of absence under the FMLA, employees must have been employed by the Town for at least twelve months and must have worked at least 1250 hours within the twelve months immediately preceding the commencement of the leave.

Eligible employees are entitled to a maximum of twelve weeks leave time (for one or more qualifying events) during a twelve-month period, which commences with the date leave is first taken. The 12 weeks need not be consecutive, and may be intermittent if required by the circumstances necessitating the leave. Family members who are both employed by the Town are entitled to a total of twelve weeks leave (rather than twelve weeks each) for the birth, adoption and/or foster placement of a child. If an employee returns to work prior to or at the conclusion of the twelve-week period, the employee will be returned to the same or an equivalent position. Health benefits for employees are continued for the duration of the leave in the same manner as when the employee was working.

Employees are required to use all applicable accruals while out on FMLA leave. For an employee's own serious health condition, this would include accrued sick, personal and then vacation time. For taking care of a family member with a serious health condition, or for the birth, adoption or foster care placement of a child, this would include accrued personal and then vacation time. Neither the employee nor the Town can require delaying the designation of the leave as FMLA qualifying leave until after paid accrued

time has been used or exhausted. Once the Town has enough information to determine that the leave qualifies for FMLA designation, the employee shall be so notified.

Employees must provide 30 days notice for a foreseeable leave due to birth, adoption or planned medical treatment. Employees are expected to provide as much notice as practicable, but in no event less than 2 days after an unforeseeable circumstance. Failure to provide the requisite notice may result in the delay or denial of the FMLA leave.

Upon request employees must submit medical documentation on a form provided by the Town to substantiate the need for the leave (including requests for leave to care for a seriously ill family member). If the leave is foreseeable and at least 30 days notice has been provided, the medical certification should be provided before the leave begins. If that is not possible, it must be provided no later than 15 calendar days after it is requested. Failure to provide the medical certification in a timely manner may result in delay or denial of the FMLA leave. The Town reserves the right to require a second or third medical opinion and certification in order to determine whether leave is necessary. The Town is responsible for absorbing the cost of required additional medical opinions. The Town may require periodic medical documentation to substantiate the continuation of the leave, no less than every 30 days.

Employees must obtain and submit medical clearance from their physician prior to returning to work. Employees must advise the Town of Brookhaven their intent to return to work as soon as practicable. Failure to provide the medical clearance may delay the return to work.

While on any unpaid portion of FMLA leave, an employee does not accrue vacation, sick time or personal time.

Full-time employees may be entitled to additional rights and benefits pursuant to their collective bargaining agreements.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2018-0280
MEETING: MARCH 22, 2018

REPLACING ONE OF THE
DESIGNATED CONTACT PERSONS IN
CONNECTION WITH THE TOWN OF
BROOKHAVEN'S WORKPLACE
VIOLENCE PREVENTION POLICY
STATEMENT

WHEREAS, on June 7, 2006, New York State enacted legislation creating a new Section 27-b of the State Labor Law which requires public employers to perform a workplace evaluation or risk evaluation at each worksite and to develop and implement programs to prevent and minimize workplace violence; and

WHEREAS, the Town of Brookhaven, by Resolution No. 2009-1097 on December 22, 2009, adopted the Workplace Violence Prevention Policy which is in compliance the New York State Labor Law Article 2, Section 27-b; and

WHEREAS, the Town of Brookhaven by Resolution No. 2013-0763 on August 6, 2013 adopted the Workplace Violence Prevention Policy Statement designating contact people; and

WHEREAS, the Town Board of the Town of Brookhaven is desirous of replacing one of the designated contact persons in connection with the Town of Brookhaven's Workplace Violence Prevention Policy Statement as set forth in the attached.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the Town hereby replaces one of the designated contact persons in connection with the Town of Brookhaven's Workplace Violence Prevention Policy Statement as attached; and be it further

RESOLVED, that every employee within the Town of Brookhaven shall receive a copy of the Workplace Violence Prevention Policy Statement, a copy of which is available on the Town Shared Drive as well as from the Division of Personnel and the Town Safety Officer, ensuring that all employees work in a safe and secure environment.

Workplace Violence Prevention Policy Statement

The Town of Brookhaven is committed to the safety and security of our employees. Workplace violence presents a serious occupational safety hazard to our agency, staff, and the general public. Workplace Violence is defined as any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment including but not limited to:

An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
Any intentional display of force which would give an employee reason to fear or expect bodily harm;
Intentional and wrongful physical contact with a person without his or her consent that entails some injury; Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.
Acts of violence against Town of Brookhaven employees where any work related duty is performed will be thoroughly investigated and appropriate action will be taken, including summoning criminal justice authorities when warranted.

All employees are responsible for helping to create an environment of mutual respect for each other as well as clients and visitors, following all policies, procedures and program requirements, and for assisting in maintaining a safe and secure work environment.

This policy is designed to meet the requirements of NYS Labor Law Section 27-b and highlights some of the elements that are found within our Workplace Violence Prevention Program. The process involved in complying with this law included a workplace evaluation that is designed to identify the workplace violence hazards our employees could be exposed to.

Authorized Employee Representative(s) will, at a minimum, be involved in:

- The evaluation of the physical environment;
- The development of the Workplace Violence Prevention Program and;
- The review of workplace violence incident reports at least annually to identify trends in the types of incidents in the workplace and review of the effectiveness of the mitigating actions taken.

All employees will participate in the annual Workplace Violence Prevention Training Program.

The goal of this policy is to promote the safety and well-being of all people in our workplace. All incidents of violence or threatening behavior will be responded to immediately upon notification.

All Town of Brookhaven personnel are responsible for notifying the contact person designated below of any violent incidents, threatening behavior, including threats they have witnessed, received, or have been told that another person has witnessed or received.

DESIGNATED CONTACT PEOPLE

MALE

Name: Ken Lauri
Title: Assistant Town Attorney
Department: Law
Phone: 451-6500
E-mail: klauri@brookhavenny.gov

FEMALE

Marie M. Michel
Senior Assistant Town Attorney
Department: Law
Phone: 451-6500
E-mail: mmichel@brookhavenny.gov

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2016-0297
MEETING: APRIL 7, 2016

TO AMEND THE TOWN OF
BROOKHAVEN'S WORKPLACE
VIOLENCE POLICY

WHEREAS, it has been determined that for the protection of Town employees and the public, the possession of firearms must be restricted; and

WHEREAS, there already exists a provision in the Town Code at §10-23, restricting the possession and use of firearms and weapons in certain situations.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that it shall be the policy of the Town of Brookhaven to prohibit an employee from carrying a firearm, shotgun or rifle, as those terms are defined in Penal Law Sec 265, concealed or otherwise, while on Town property, in a Town vehicle, in the employee's personal vehicle while on Town property, or while on duty conducting Town business. An exception to the foregoing are employees in the Department of Public Safety who have been so designated in writing by the Chief of Staff, after consultation with the Commissioner of Public Safety or his/her designee and designated Peace Officers as follows: Chief Fire Marshal, Assistant Chief Fire Marshal, Fire Marshal II, Fire Marshal I, Bay Constables, and Harbor Masters, after approval by the Commissioner of Public Safety who shall be the individual responsible for overseeing and ensuring compliance of armed personnel; and be it further

RESOLVED, that the following shall be requirements for Town Employees hereby authorized to carry firearms on duty:

1. Peace Officer: Authorized employees shall be designated as Peace Officers, as it pertains to Fire Marshals, Bay Constables and Harbor Masters, pursuant to

NYS CPL Article 2, Section 2.10, Subsections 18, 19 and 65. All employees must be approved by the Commissioner of Public Safety to carry firearms.

2. Initial Training and Qualifications: Each authorized employee shall receive the initial training and qualification in the use of firearms pursuant to the requirements of the NYS Division of Criminal Justice Services from an authorized governmental training agency.
3. Annual and In-Service Training Requalifications: Each authorized employee shall receive annually in-service training and requalification pursuant to the requirements of the NYS Division of Criminal Justice Services from an authorized governmental training agency. The aforementioned annual training and annual qualifications shall include:
 - Firearms requalifications
 - Expandable Baton (if carried)
 - O.C. Spray (if carried)
 - Use of force/DPF
4. Personnel File Review: Commissioner of Public Safety (or his/her designee) shall perform an annual review of the authorized employee's personnel file for any evidence of disciplinary actions, EAP referrals or other information which may be utilized to determine if a firearm may still be authorized.
5. Annual background check: Commissioner of Public Safety (or his/her designee) shall perform or cause the performance of an appropriate background check annually of the authorized employee.
6. Physical: Should the Commissioner of Public Safety deem it necessary, an authorized employee shall be required to obtain a physical examination.
7. Laws and S.O.Ps: An authorized employee shall adhere to all applicable state laws and department/division standard operating procedures.
8. Authorization. Peace Officer shall be authorized to carry a weapon while performing within the scope of duties, while on duty in the Town of Brookhaven.
9. Equipment. Glock 9mm Model 19 or 26 and ammunition holsters shall be purchased and owned by the Peace Officers and shall not remain on Town of Brookhaven property while officers are not on duty.

; and be it further

RESOLVED. It shall be the policy of the Town to prohibit any person who is not a Town employee from bringing any firearm, rifle or shotgun, whether concealed or not, into any Town owned building or on Town property, without first obtaining express permission to do so from the Commissioner of Public Safety or his/her designee for this purpose. An exception to the foregoing shall be for non-Town peace officers and police officers who are duly licensed and permitted to carry a particular weapon.

RESOLUTION NO. 2013-763

MEETING OF: AUGUST 6, 2013

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

**AMENDMENT TO THE TOWN OF
BROOKHAVEN'S WORKPLACE
VIOLENCE POLICY TO INCLUDE A
PROVISION FOR FULL EMPLOYEE
PARTICIPATION THROUGH AN
AUTHORIZED EMPLOYEE
REPRESENTATIVE TO FURTHER
MEET THE REQUIREMENTS OF
NEW YORK STATE LABOR LAW
SECTION 27-b**

WHEREAS, on June 7, 2006, New York State enacted legislation creating a new Section 27-b of the State Labor Law which requires public employers to perform a workplace evaluation or risk evaluation at each worksite and to develop and implement programs to prevent and minimize workplace violence; and

WHEREAS, the Town of Brookhaven, by Resolution No. 2009-1097 on December 22, 2009, adopted the Workplace Violence Prevention Policy which is in compliance the New York State Labor Law Article 2, Section 27-b; and

WHEREAS, the Town of Brookhaven is desirous of amending the Workplace Violence Policy to include a provision for full employee participation through an authorized employee representative in the development and implementation of the Town's workplace violence prevention program as attached.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the Town hereby amends the Town of Brookhaven Workplace Violence Policy as attached; and be it further

RESOLVED, that every employee within the Town of Brookhaven shall receive a copy of the amended Town of Brookhaven Workplace Violence Policy, a copy of which is available on the Town Shared Drive as well as from the Division of Personnel and the Town Safety Officer, ensuring that all employees work in a safe and secure environment.

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2013-278

MEETING OF: February 26, 2013

TO AMEND THE TOWN OF
BROOKHAVEN'S WORKPLACE
VIOLENCE POLICY

WHEREAS, it has been determined that for the protection of Town employees and the public, the possession of firearms must be restricted; and

WHEREAS, there already exists a provision in the Town Code at §10-23, restricting the possession and use of firearms and weapons in certain situations.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that it shall be the policy of the Town of Brookhaven to prohibit an employee from carrying a firearm, shotgun or rifle, as those terms are defined in Penal Law Sec 265, concealed or otherwise, while on Town property, in a Town vehicle, in the employee's personal vehicle while on Town property, or while on duty conducting Town business. An exception to the foregoing are employees in the Department of Public Safety who have been so designated in writing by the Chief of Staff, after consultation with the Commissioner of Public Safety or his/her designee, and the Town's Sr. Safety Officer; and be it further

RESOLVED, it shall be the policy of the Town to prohibit any person who is not a Town employee from bringing any firearm, rifle or shotgun, whether concealed or not, into any Town owned building or on Town property, without first obtaining express permission to do so from the Commissioner of Public Safety or his/her designee for this purpose. An exception to the foregoing shall

be for non-Town peace officers who are duly licensed and permitted to carry a particular weapon.

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 539-07
MEETING OF: June 5, 2007

**ESTABLISHMENT OF TOWN OF BROOKHAVEN
INJURY AND ILLNESS PREVENTION PROGRAM
FOR WORKPLACE VIOLENCE**

WHEREAS, workplace violence is physical assault, threatening behavior or verbal abuse occurring in the workplace setting and is a critical problem, both for the employee and employer; and

WHEREAS, on June 7, 2006, New York State enacted legislation creating a new Section 27-b of the State Labor Law which requires public employers to perform a workplace evaluation or risk evaluation at each worksite and to develop and implement programs to prevent and minimize workplace violence; and

WHEREAS, the Town of Brookhaven concurs with the rules and guidelines outlined by the New York State Department of Labor, Division of Safety and Health regulations which is attached and entitled "Workplace Violence Prevention Requirement for New York State Public Employees;" and

WHEREAS, the Town of Brookhaven and its Departments are dedicated to ensuring that all employees work in a safe, secure environment, and has formed a committee and prepared the attached program entitled, "Town of Brookhaven Injury and Illness Prevention Program for Workplace Violence" the sole purpose of which is to inform and assist the Town of Brookhaven personnel in recognizing and take appropriate action when workplace violence is recognized, including but not limited to physical assault, threatening behavior or verbal abuse occurring in the workplace setting; and

WHEREAS, the Town Attorney has designated two attorneys to investigate and verify any report received without delay and to initiate appropriate action necessary to resolve the issue in order to provide a safe workplace where violence is not tolerated and every effort is made to prevent same;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the Town hereby establishes the attached "Town of Brookhaven Injury and Illness Prevention Program for Workplace Violence;" and be it further

RESOLVED, that every employee within the Town of Brookhaven shall receive a copy of the "Town of Brookhaven Injury and Illness Prevention Program for Workplace Violence" ensuring that all employees work in a safe and secure environment.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2013-277
MEETING OF: February 26, 2013

RESOLUTION IN SUPPORT OF THE RENEWAL OF
"THE VIOLENCE AGAINST WOMEN ACT" BY THE
UNITED STATES CONGRESS

WHEREAS, the United States Congress recognized the severity of violence against women and our need for a national strategy with the enactment of the Violence Against Women Act in 1994, with a vote of 415-4; and

WHEREAS, this landmark federal legislation's comprehensive approach to violence against women combined tough new provisions to hold offenders accountable with programs to provide services for the victims of such violence; and

WHEREAS, the Violence Against Women Act has improved the criminal justice response to violence against women by holding rapists accountable for their crimes by strengthening federal penalties for repeat sex offenders and creating a federal "rape shield law"; Mandating that victims are not forced to bear the expense of their own rape exams or for service of a protection order; Keeping victims safe by requiring that a victim's protection order will be recognized and enforced in all state, tribal, and territorial jurisdictions within the United States; Increasing rates of prosecution, conviction, and sentencing of offenders by helping communities develop dedicated law enforcement and prosecution units and domestic violence dockets; Ensuring that police response to crisis calls and judges understand the realities of domestic and sexual violence by training law enforcement officers, prosecutors, victim advocates and judges; and Providing additional tools for protecting women in Indian country by creating a new federal habitual offender crime and authorizing warrantless arrest authority for federal law enforcement officers who determine there is probable cause when responding to domestic violence cases; and

WHEREAS, the VAWA has ensured that victims and their families have access to the services they need to achieve safety and rebuild their lives by Responding to urgent calls for help by establishing the National Domestic Violence Hotline; Improving safety and reducing recidivism by developing coordinated community responses; Focusing attention on the needs of underserved communities; including creating legal relief for battered immigrants and supporting tribal governments in building their capacity to protect American Indian and Alaska Native women; and

WHEREAS, that Violence Against Women Act has created positive change in that fewer people are experiencing domestic violence; More victims are reporting domestic and sexual violence to police, and reports to police are resulting in more arrests; States have reformed their laws to take violence against women more seriously; Many states have passed laws prohibiting polygraphing of rape victims; and

WHEREAS, the Town Board of the Town of Brookhaven is desirous of supporting the United States Congress renewal of "The Violence Against Women Act", which expired in 2011.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Brookhaven recognizes the need to address the severity of violence against women; and be it further

RESOLVED, that this Town Board supports the renewal of "The Violence Against Women Act".



Town of Brookhaven Long Island

Edward P. Romaine, Supervisor

TO: All Town Employees

FROM: Garrett W. Swenson, Jr., Chief of Staff *GWS*

RE: **PROHIBITION OF POLITICAL ACTIVITY ON TOWN TIME
AND PREMISES/TIME SHEET RESPONSIBILITY**

DATE: January 31, 2013

Supervisor Romaine has requested that I specifically remind all Town employees that political activities conducted during work hours are strictly prohibited. In addition, the use of Town equipment and vehicles for political activities are strictly prohibited. Any deviation from this directive will be cause for disciplinary action.

In addition, any personal business that is attended to during the course of the workday must be properly reflected on the time sheet as personal or vacation time, which must have prior approval. Personal business includes all activities that are personal in nature and includes political activities.

The Town's legal duty is to insure that Town employees are paid only for performing work properly required of them and which is accurately reflected on their time sheets. Filing a time sheet that fails to charge personal business to accruals may subject such employee to disciplinary action and could lead to criminal proceedings.

GWS:cjs

cc: Hon. Edward P. Romaine, Supervisor
Hon. Daniel Panico, Deputy Supervisor/Sixth District Councilman
Hon. Steve Fiore-Rosenfeld, First District Councilman
Hon. Jane Bonner, Second District Councilwoman
Hon. Kathleen A. Walsh, Third District Councilwoman
Hon. Constance Kepert, Fourth District Councilwoman
Hon. Timothy P. Mazzei, Fifth District Councilman
Hon. Louis Marcoccia, Receiver of Taxes
Hon. Patricia Eddington, Town Clerk
Mike Murphy, Acting Superintendent of Highways
Lisa Keys, Deputy Chief of Staff
Matthew J. Miner, Chief of Operations/Commissioner of Waste Management
Annette Eaderesto, Town Attorney
Linda Chawner, Town Personnel Officer

Office of the Supervisor

One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-9100 • Fax (631) 451-6677

www.brookhaven.org

Printed on recycled paper

Town of Brookhaven

Employee Safety Handbook



March 2010

Employee Safety Handbook

At the Town of Brookhaven, our most valued resources are our employees, the members of the public, and the communities we serve. We are dedicated to providing a safe and healthy environment for employees and the public. Injuries generally can be prevented. In order to achieve an accident free workplace, an organized and effective Safety Program must be carried out Town wide.

All employees will follow this program

Please take the time to study and understand these safety policies and procedures. It is your responsibility (and ours) to make this program work. You are a valued member of the team, and we care about your safety.

Health and Safety Requirements

All employees will comply with the provisions of the Occupational Safety and Health Act. Therefore, any employee who knowingly commits an unsafe act, creates an unsafe condition or disregards the safety policy is subject to disciplinary action, as per established procedures. Some (but not all) violations are listed below:

- Drinking alcohol, and/or drug abuse prior to or during working hours
- Fighting
- Theft
- Willful damage to property
- Failure to wear proper Personal Protective Equipment (PPE).
- Willful or negligent destruction of safety equipment/machinery guards
- Failure to follow proper safety procedures
- Failure to follow recognized industry practices
- Engaging in dangerous horseplay
- Failure to notify the Town of Brookhaven of a hazardous situation

Notify your supervisor immediately if/of

- Any/all injuries
- Should you become ill while on the job
- You have a disability or physical handicap that will prevent you from safely performing an assigned task
- You do not have the proper safety equipment
- Any safety violations you observe
- Any dangerous conditions you observe

Accident and Incident Reporting

It is important that you report all accidents and incidents that result in injury, illness, or damage (however slight), to your supervisor immediately. It is the Town of Brookhaven's responsibility to investigate each incident, and your responsibility to report them when they occur.

First Aid and Medical Treatment

The Town of Brookhaven provides a First Aid Kit in many departments. It is there for your use for the treatment of minor injuries. Ask your supervisor to show you its location. Let your supervisor know if you need to use the First Aid Kit.

If you have a work-related injury or illnesses that requires professional medical assistance, notify your supervisor and let him/her know before you receive this assistance. If you fail to notify your supervisor, you may be ineligible for Worker's Compensation benefits to pay for doctor's bills, and/or lost wages.

First Aid Training

The Town of Brookhaven, with limited exceptions, does not provide first aid training to its employees. Any first aid rendered by one employee to another is done so voluntarily (as a "Good Samaritan").

CPR/AED Training

The Town Of Brookhaven will provide AED/CPR training to employees when possible. Employees who require this skill as a condition of employment will receive first call on this training. Other employees will be offered this training as resources allow. This training will be given free of charge on Town time. The only condition placed on this training is that the employee volunteers to use this training to render aid as appropriate during their workday. Contact the Town Senior Safety Officer for information regarding CPR/AED classes.

Your Safety Rights

You have several important rights concerning safety, which are protected by federal, state and local laws that you should be aware of. They are:

- The right to request information on Health and Safety hazards in the workplace, precautions that may be taken, and procedures to be followed if an employee is injured or exposed to toxic substances.
- The right to know about the hazards associated with the chemicals you work with, and the safety procedures you need to follow to protect yourself from those hazards.
- The right to question any instruction which requires you to disobey a safety rule, which puts you or someone else in unnecessary danger of serious injury, or requires you to perform a task which you have not been trained to safely perform.

- The right of freedom from retaliation for demanding your safety rights.

Your Safety Responsibilities

You also have some important responsibilities concerning safety. These are:

- The responsibility of reporting all injuries and illnesses to your supervisor, no matter how small.
- The responsibility of always following the safety rules for every task you perform,
- The responsibility of reporting any hazards you see.
- The responsibility of helping your co-workers recognize unsafe actions or conditions they cause.
- The responsibility of asking about the safety rules you are not sure about.

Employee Safety Rules

It is impossible to list or include all safety rules for all the possible tasks you may have to do. But the following rules have been prepared to help you avoid hazards, which may cause injury while doing some of the more common tasks you may be asked to do. You should study and follow the rules provided in this booklet, and to ask your supervisor for additional rules when asked to do a task you are not familiar with, and this booklet does not cover. Failure to follow safety rules and /or safe practices may result in disciplinary action in accordance with established procedures.

GENERAL SAFETY RULES

- Read and follow the safety notices and other information that is posted.
- Observe and follow all safety instructions, signs, and operation procedures.
- Help your fellow employees when they ask for assistance or when needed for their safety.
- Never participate in "horseplay."
- Clean up spills immediately.
- Report all unsafe conditions, hazards, or equipment immediately. Make sure other people are warned of the problem so that they may avoid it.
- Wear personal protective equipment as required to reduce injury potential. Use gloves, safety glasses, back support belts, etc., as necessary.
- Never stand on chairs, furniture, or anything other than an approved ladder or step stool.
- Never use intoxicating beverages or controlled drugs before or during work. Prescription medication should only be used at work with your Doctor's approval.

FIRE SAFETY

- Report all fire hazards to your supervisor immediately.

- Fire fighting equipment shall be used only for fire fighting purposes by those who are trained to do so.
- Do not block off access to fire fighting equipment.
- Keep doors, aisles, fire escapes and stairways unobstructed at all times.
- In the case of a fire, your first consideration must be the safety of all persons.
- Change clothes immediately if they are soaked with oil, gasoline, paint thinner or any other flammable liquid.
- Know how to report a fire and how to sound the fire alarm.
- Know the location of all fire extinguishers, and how to use them.
- Know the fire exits to be used in an emergency.

HAND TOOL SAFETY

- Wear protective equipment necessary for the job you are performing. Discuss any required safety equipment with your supervisor as changes occur.
- Do not use defective tools.
- Check all wiring on electric hand tools for proper insulation and 3-prong plug grounding.
- **Hammers:** Use eye protection at all times!
- **Screwdrivers:** Use the right size and type of screwdriver for the job. Do not use a screwdriver as a chisel.
- **Wrenches:** In using any wrench, it is better to pull than to push. If you have to push, use your open palm. Use the proper wrench for the job.
- **Handsaws:** Saws that are sharp and rust free are less likely to bind or jump. Insure the object being cut is secured tightly to a flat surface.

PROTECTIVE EQUIPMENT

Make sure you wear the proper safety equipment when working! Make sure it is the proper type and in good condition!

MATERIAL HANDLING SAFETY RULES

- When lifting, lift properly. Keep the back straight, stand close to the load, and use your leg muscles to do the lifting, keeping the load close to the body. Never twist your upper body while carrying a load.
- When lifting heavy objects, utilize a two-wheeled dolly, or ask for assistance from another employee.
- Inspect the object you are going to lift for sharp corners, nails or other things that may cause injury.
- Use gloves when handling rough or sharp materials.

HOUSEKEEPING

- Do not place materials in aisles, stairways, or any designated path of travel.
- Stack material at a safe height so that material will not fall if bumped. Insure heavy loads have proper support, and make sure there is no overhanging or irregular stacking of material.
- Place all trash or scrap in places provided. Clean up all spills immediately.

- Report worn or broken flooring, stair treads, handrails, furniture, or other office equipment.
- Smoking is permitted only in designated areas. Use ashtrays for disposing of butts. Do not throw butts on the floor.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2017-0052
MEETING: JANUARY 10, 2017

AMENDING THE TOWN OF
BROOKHAVEN'S CONTINUING
EDUCATION AUTHORIZATION
POLICY

WHEREAS, the Town of Brookhaven from time to time authorizes employee continuing education, which may include classroom training, seminars and/or webinars; and

WHEREAS, continuing education programs are of great importance to the Town of Brookhaven as they improve an employee's knowledge and skills, and enhance employee performance; and

WHEREAS, the Town Board of the Town of Brookhaven on January 8, 2015 adopted a policy for the authorization of continuing education programs for Town employees to provide better clarity for reimbursable expenses; and

WHEREAS, the Town Board of the Town of Brookhaven is now desirous of amending the "Town of Brookhaven Employee Continuing Education Authorization Policy."

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven that the "Town of Brookhaven Employee Continuing Education Authorization Policy" is hereby amended, as set forth in the attached, effective January 1, 2017.

Town of Brookhaven Employee Continuing Education Authorization Policy

Background:

This policy seeks to formalize policies and procedures for the authorization of employee continuing education. This policy does not include tuition reimbursement for higher education events performed outside of the work hours and paid for by the individual.

Continuing education may include classroom training, seminars, and webinars. It is recognized that Webinars are increasingly becoming a popular and cost effective means of providing continuing education as it relates to improving knowledge and skills of the Town's employees in that several staff members may participate at the same time.

It is the responsibility of the Department Commissioner to determine if the continuing education is directly related to the employee's job duties, and whether the program will enhance the employee's knowledge and skill set in such a way that will be beneficial to the performance of his or her duties.

Authorization:

- A Town Continuing Education Authorization Form must be completed by the employee attending the event, regardless of whether or not a Town Board Resolution will be required. Upon Department Commissioner Approval as prescribed below, the form must be forwarded to Finance for budgetary certification, and determination whether Supervisor's Office, or Supervisor's Office and Town Board Resolution, is necessary.
- All Continuing Education events that require overnight travel, regardless of cost, must have an approved authorization form submitted to Finance and an adopted Town Board Resolution.
- All Continuing Education events that do not require overnight travel, and have a total cost between \$0.00 and \$150.00 (includes program fees/travel/meals) per participant must be approved by the Department Commissioner and the Finance Commissioner.
- Continuing Education events that do not require overnight travel and have a total cost between \$151.00 and \$350.00 per participant must be approved by the Department Commissioner, the Finance Commissioner, and the Supervisor's Office.
- Continuing Education events that do not require overnight travel, but have a total cost over \$350.00 or more per participant must be approved by Town Board Resolution after approval by the Department Commissioner, the Finance Commissioner, and the Supervisor's Office.
- All continuing Education events that require Town Board Approval must be approved by the Supervisor's Office in advance of a Resolution Submission by Finance.
- The Finance Department will provide the Supervisor's Office with a monthly report of all approved Continuing Education programs and employees who attended that cost \$150.00 or less.

Eligible Continuing Education Expenditures:

- Event registration/program fees.
- Least expensive method of transportation to/from the event.
- If driving is the least expensive method of transportation, a Town vehicle must be used, unless an exception is granted by the Supervisor's Office or Town Board Resolution.
- Should a personal vehicle be used for transportation, the mileage reimbursement will be based upon the current Federal IRS rate.
- Meal expenses may be reimbursed only when meals are not provided at the continuing education event.
- If meals are not provided during the event, employees may be reimbursed for the actual costs incurred, provided they are supported by receipts. If actual meal costs are in excess of the GSA per diem allowance for the area of travel, authorization for such expenditures must be obtained by the Supervisor's Office. Consistent with GSA rules, no meal allowance is allowed unless the employee is in travel for more than 12 hours.
- Overnight accommodations must take advantage of any discounted rooms sponsored by the event. If no accommodations are sponsored by the event, the cost may not exceed the GSA nightly room rate unless approved by the Supervisor's office prior the traveling.
- The Town Continuing Education Authorization Form must be completed and approved as required for all continuing education events.

Town of Brookhaven Continuing Education Authorization Form

Employee Name: _____ Signature _____

Department: _____

Date _____ Date(s) of Event: _____

In accordance with the Employee Continuing Education Authorization Policy, I request authorization to attend the following: Training__ Seminar__ Webinar__ Location: _____

Name Education event _____

Please describe the relevance of this training / Seminar / Webinar to Employees current Town position.

Cost of Program Registration: _____

Estimated Cost of Lodging: _____

Estimated Cost of Travel: _____

Estimated Cost of Meals: _____

Total Estimated Program Costs: _____

Does Event Require Overnight Travel? Yes___ No___

I certify that the Continuing Educational event is related to the employee's job description and will serve to enhance the skills necessary to efficiently perform his / her duties, and I approve administrative leave for the employee for this event.

Department Commissioner:

Name _____ Signature _____ Date _____

Budgetary Control:

Appropriation fund to be used _____ Funds Available _____

Finance Commissioner Approval _____ **Date** _____

Finance Department Only:

____ Office Of the Supervisor Approval _____ Date _____

____ Requires Town Board Approval

Title VI Plan



Town of Brookhaven

Adopted: August 6, 2015

TABLE OF CONTENTS

Introduction.....	2
Non-Discrimination Policy Statement.....	3
Town of Brookhaven’s Title VI Assurances.....	6
Americans with Disabilities Act.....	7
Environmental Justice.....	8
Limited English Proficiency.....	9
Organization and Staffing.....	10
Process to Identify and Eliminate Discrimination.....	11
Title VI Training.....	11
Title VI Monitoring and Review Process.....	12
Sub-Recipient Review Procedures.....	13
Investigation of Complaints.....	13
Data Collection and Reporting.....	17
Title VI Information Dissemination.....	18
Additional Resources.....	19
Appendix A.....	20
Appendix B.....	23
Appendix C.....	24
Appendix D.....	25
Appendix E.....	29
Appendix F.....	30
Appendix G.....	31
Appendix H.....	33
Appendix I.....	34

INTRODUCTION¹

The Town of Brookhaven is committed to ensuring that no person is excluded from participation in, or denied the benefits or services delivered by the Town on the basis of race, color, national origin, income, disability, gender, age, marital status, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service, Limited English Proficiency or any other non-merit based factor. This Title VI Plan was developed to guide the Town in its administration and management of Title VI related activities.

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, sex, age, disability, income status or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”²

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities”³ to include all programs or activities of Federal Aid⁴ recipients, sub-recipients, and contractors, whether such programs and activities are directly Federally assisted or not,⁵ so long as any part of the department, agency, special purpose district or other instrumentality of a State or local government is extended Federal financial assistance.⁶

¹ Additional authorities to reference include: Title VI of the Civil Rights Act of 1964; 23 U.S.C. § 109(h) (2012); 23 U.S.C. § 324 (1973); 42 U.S.C. §§ 2000d -2000d-4 (1964); 42 U.S.C. §§ 4601-4655 (1987); 28 C.F.R. § 50.3 (1966); DOT Order 1050.2 (1971); Executive Order No. 12250 (1980); Executive Order No. 12898 (1994).

² 42 U.S.C. § 2000d

³ See P.L. 100.259, § 557, March 22, 1988

⁴ “Federal Aid” is not limited to monies. “Although the word ‘financial’ usually indicates ‘money,’ federal financial assistance may take non-monetary form.” U.S. Dept. of Transp. v. Paralyzed Veterans, 477 U.S. 597, 607 n.11 (1986). For example, such non-monetary assistance may include the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and any other arrangements with the intention of providing assistance.

⁵ Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits. See 28 C.F.R. Part 42.102(c). The Town’s Title VI Plan, as put forth herein, applies to applicable programs and activities, as defined in 42 U.S.C. § 2000d-4a(1), and in conjunction with 28 C.F.R. Part 42.102(c).

⁶ See 42 U.S.C. § 2000d-4a(1); see also New York State Department of Transportation (<https://www.dot.ny.gov/main/business-center/civil-rights/title-vi-ej>), current through March 30, 2015, whereby in response to questioning the “programs and activities” covered by Title VI, it was noted that “Title VI applies to

NON-DISCRIMINATION POLICY STATEMENT

It is the policy of the Town of Brookhaven, hereafter referred to as "Town," to prevent and eliminate discrimination on the basis of race, color, sex, national origin, age, marital status, disability, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service, Limited English Proficiency or any other non-merit based factor, in any and all of its operations and services, as well as all aspects of employment. It is also the policy of the Town to administer all phases of its personnel activity, including recruitment, hiring, placement, upgrading, training, promotion, transfer, separation, recall, compensation, benefits, education, recreation, and all other conditions or privileges of employment without regard to the aforementioned protected groups of persons.

The Town assures that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination or retaliation under any program or activity, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987.⁷ The Town is a governmental agency⁸ that requires government contractors to take affirmative action to employ and advance through employment qualified minorities, women, persons with disabilities, and disabled veterans and veterans of the Vietnam Era. The Town further assures that every effort will be made to ensure non-discrimination in all of its programs and activities, regardless of whether those programs are directly receiving federal funding or assistance.

The Town, as a "recipient," is to include Title VI language in all applicable written agreements and will monitor⁹ for compliance when the "sub-recipient" entity is either in receipt of direct or indirect federal aid. The Town will monitor for compliance¹⁰ both pre-award¹¹ and post-award.¹²

discrimination throughout an agency, not just to actions involving the Federally assisted program. If an agency receives any Federal financial assistance for any program or activity, the entire agency is required to comply with Title VI, not just the particular program."

⁷ See P.L. 100.259, § 557, March 22, 1988

⁸ Subject to Executive Order No. 11246, Section 503 of the Rehabilitation Act of 1973, and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

⁹ See "Title VI Monitoring and Review Process" for more information.

¹⁰ If the Town believes that an applicant is not in compliance with Title VI, the Town has three potential remedies: (1) resolution of the non-compliance (or potential non-compliance) by "voluntary means", which entails the Town entering into an agreement with the applicant, and whereby that agreement becomes a condition of the contract for receiving federal assistance; (2) where voluntary compliance efforts are unsuccessful, the Town can opt to refuse to grant or continue the assistance; or (3) where voluntary compliance efforts are unsuccessful, the Town can refer the

The Town of Brookhaven further agrees to the following responsibilities with respect to its programs and activities:

1. To designate a Title VI Coordinator who has a responsible position within the organization, and access to and communication with the Town Supervisor and/or Deputy Supervisor.
2. The Town is to issue a policy statement (herein), to be signed by the Town Supervisor and/or Deputy Supervisor, which expresses the Town's commitment to the non-discrimination provisions of Title VI. This policy statement shall be circulated throughout the Town's offices and to the general public. Such information shall be published, where appropriate, in languages other than English.
3. In Town contracts that are subject to the acts and regulations referred to herein and pursuant to Title VI, the terms and clauses put forth in Appendix A shall be incorporated into those Agreements.
4. The Town shall develop and maintain a complaint process, whereby the Town will make every effort to resolve complaints of discrimination against itself and its sub-recipients. Complaints against the Town, as a recipient, shall be immediately forwarded to the New York State Department of Transportation's Office of Civil Rights Title VI Coordinator.
5. The Town shall participate in training offered on Title VI matters and other non-discrimination requirements.

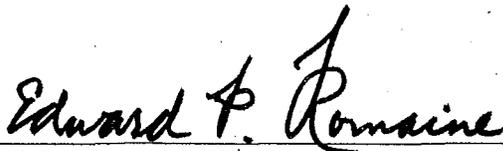
violation to the Department of Justice for judicial action. (See 42 U.S.C. § 2000d-1 for procedure in pursuing these options.) Furthermore, the Town may defer the decision on whether to grant the assistance pending completion of a Title VI investigation, negotiation, or other action to obtain remedial relief. In considering options for enforcement, the Town is best suited to consult 28 C.F.R. Part 50.3, which provides an overview of guidelines for the enforcement of the Title VI Civil Rights Act of 1964.

¹¹ Pursuant to Federal statute, Federal agencies are required to monitor recipients, such as the Town, for compliance with pre-award Title VI requirements. See 28 C.F.R. Part 42.407(b). Thus, in turn, the Town, subject to such audit, is to be responsible for ensuring that its sub-recipients are in pre-award compliance as well. See generally 28 C.F.R. Part 42.107(a). See Footnote 9 for means of pursuing voluntary compliance; where voluntary compliance is achieved, the agreement must be in writing and specify the action necessary for the correction of the Title VI deficiencies [28 C.F.R. Part 42.411(b)].

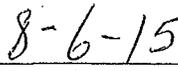
¹² Pursuant to Federal statute, Federal agencies are required to monitor recipients, such as the Town, for compliance with post-award Title VI requirements. See 28 C.F.R. Part 42.407(c). Thus, in turn, the Town, subject to such audit, is to be responsible for ensuring that its sub-recipients are in post-award compliance as well. See generally 28 C.F.R. Part 42.107. Compliance reviews can vary, and can range from large and complex investigations to those more limited in scope. Post-award reviews may be limited to a simple "desk audit", whereby the Town could demand the production of or access to records and a review is conducted of documentation submitted, or may even involve an on-site review.

6. If the Town is subject to a review by the New York State Department of Transportation and/or the U.S. Department of Transportation, and any deficiencies are identified, then the Town agrees to take affirmative action to correct any and all deficiencies within a reasonable time period, not to exceed ninety (90) calendar days.
7. The Town maintains that it has a process to collect racial and ethnic data on persons impacted by Town programs.

The Town of Brookhaven's Department of Housing and Human Resource's Commissioner, Diana Weir, is designated to be the Title VI Coordinator and is responsible for implementing the Title VI requirements for the municipality.¹³ The Town's Title VI Coordinator is also responsible for initiating and monitoring Title VI activities, preparing reports and related responsibilities.¹⁴



Edward P. Romaine, Supervisor
Town of Brookhaven



[dated]

¹³ Pursuant to 23 C.F.R. § 200.9(a)(3)

¹⁴ As required by 23 C.F.R. § 200 and 49 C.F.R. § 21

TOWN OF BROOKHAVEN'S TITLE VI ASSURANCES

The Town of Brookhaven agrees that as a condition to receiving any Federal financial assistance from the United States Department of Transportation, Federal Highway Administration, or from the State of New York, through the New York State Department of Transportation, it is subject to, and must comply with, the statutory and regulatory authorities and requirements as detailed and put forth in this document.

The Title VI Assurances provision requires the Town to include specific language in all of its solicitations, contracts, permits, licenses, leases, and documents transferring real property. In some cases, the language and Assurances required by Title VI supplements the Town's existing equal opportunity and nondiscrimination provisions.

This Assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal aid and Federal financial assistance as extended after the date hereof to the Town, as a recipient, by the Department of Transportation under the Federal Highway Program, and is binding on the recipient, sub-recipients, sub-grantees, contractors, subcontractors and any of their subcontractors (if applicable), transferees, successors in interest, and any other participants in the Federal Highway Programs. The person whose name and signature appears below is authorized to sign this assurance on behalf of the Town, as a recipient.

Edward P. Romaine

Edward P. Romaine, Supervisor
Town of Brookhaven

8-6-15

[dated]

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) of 1990 provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. Thus, the ADA prohibits discrimination and ensures equal opportunity for persons with disabilities. It also mandates the establishment of teletype devices or telephone relay services and encourages the involvement of people with disabilities in the development and improvement of transportation plans and para-transit plans and improvement services. The ADA was originally enacted in public law format and later rearranged and published in the United States Code.

The purpose of this section is to ensure that the Town creates reasonable, accessible paths of travel in the public right-of-way for everyone, including people with disabilities. The Town has made a significant and long-term commitment to improving the accessibility of their pedestrian facilities. The Town continues to make transportation investments in projects that address the safety of pedestrians consistent with the ADA Transition Plan.¹⁵ In consideration of the recommendations put forth in the Transition Plan, the Town is working to ensure that sidewalks, curb ramps, crosswalks, and signage within the Town are compliant with ADA guidelines.

The public complaint process is an integral part of the Transition Plan, which the Town has adopted. Public complaints or requests may often drive the prioritization of improvements. To file a complaint or a request regarding accessibility of a sidewalk or curb ramp, contact the Town's ADA Coordinator in writing and describe the issue in detail, including the location. The ADA Coordinator will route this information to the appropriate Town department for inspection and possible action. If the roadway and signage are designated to be Town property, the Town will work to ensure that any such issues are remedied and brought into ADA compliance.¹⁶ In the

¹⁵ The Transition Plan describes the existing policies and programs to enhance the overall pedestrian accessibility. Moreover, the Transition Plans provide a method for a public entity to schedule and implement ADA required improvements to existing streets and sidewalks. Before a Transition Plan can be developed, an inventory of the current curb ramps and sidewalks must be developed.

¹⁶ Title II specifically applies to "public entities" (state and local governments) and the programs, services, and activities they deliver. Title II, Article 8, requires public entities to take several steps designed to achieve compliance. The plan shall, at minimum, include: (a) a list of the physical barriers in a public entity's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities; (b) a detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible; (c) the schedule for taking the necessary steps to achieve compliance with Title II; and (d) the name of the official responsible for the plan's implementation.

event that such roadways and signage are privately owned and maintained, then the Town will investigate further and send compliance officers to assist with ADA compliance and/or issue tickets for such existing violations.

ADA provisions have also been incorporated into design manuals and processes to ensure that ADA issues have been taken in to consideration and are part of project development. In order to ensure the correct design of curb ramps, sidewalks, and crosswalks in new construction and alterations, the Town follows ADA guidelines for pedestrian facilities in the public right-of-way. Whenever there is an intersection improvement project or new construction project, any affected curb ramps, sidewalks, and crosswalks will be rebuilt to these ADA design guidelines, where feasible and reasonable.

ENVIRONMENTAL JUSTICE

The 1994 Environmental Justice Executive Order No. 12898 (EJ) supplements the existing requirements of Title VI of the Civil Rights Act, whereby it directs federal agencies to identify and address the disproportionately high and adverse human, health, or environmental effects of its actions on minority and low-income populations, to the greatest extent practicable and as permitted by law. The order also directs each agency to develop a strategy for implementing such EJ policies. Additionally, the order is also intended to promote non-discrimination in federal programs that both affect human health and have an impact on the environment.

The Town of Brookhaven makes a concerted effort to understand community demographics, avoid potentially negative impacts to specific populations, which encompass such groups as aforementioned, and ensure equal opportunity for all to participate in the planning process through public hearings and public participation, as well as other mechanisms used to gather community feedback. Also, all projects with the potential for significant adverse environmental outcomes include a social impact analysis, and EJ considerations are analyzed to that effect.

LIMITED ENGLISH PROFICIENCY

The 2000 Limited English Proficiency Executive Order No. 13166 (LEP) requires recipients of federal funding, such as the State and Metropolitan Planning Organizations, to examine the services that it provides, to assess whether there is a need for additional LEP services, and to develop and implement a system to provide LEP individuals with meaningful access¹⁷ to the appropriate services.

A person who does not speak English as their primary language, and who has a limited ability to read, write, speak or understand English, may be a LEP person and therefore may be entitled to language assistance with respect to Town and sub-recipient services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language, and/or translation, which means the written transfer of a message from one language into another language, and/or the translation of documents, which means written transfer of a formal document or notice from one language into another language.

Presently, the Town uses the company, Language Line Services,¹⁸ which provides a variety of LEP services to the Town, upon request and free to LEP persons who wish to access the Town's programs and activities. The current contract term is valid through October 24, 2017,¹⁹ and such services include telephone interpretation assistance as well as document translation.²⁰

With proper advance notice, typically through contacting the Town's Title VI Coordinator at least two business days prior to the program or activity for which translation services are being requested, such as in the case of Town Board meetings, hearings, or other Town business, LEP persons can request translation services. The Town also proactively employs different measures for identifying LEP persons who require language assistance through the use of posting notices,²¹

¹⁷ "Meaningful Access" is assessed by employing a four factor analysis. Considerations include (1) the number or proportion of LEP persons in the service area who may be served or are likely to require recipient or sub-recipient services; (2) the frequency with which LEP persons come in contact with recipient or sub-recipient services; (3) the nature and importance of services, as provided by the recipient or sub-recipient to the LEP population; and (4) the resources available to the recipient and sub-recipient, and overall costs to provide LEP assistance.

¹⁸ Language Line Services provided the Town with a "Quick Reference Guide" and an "11 Helpful Tips for Working with an Over-the-Phone Interpreter" guide to facilitate the Town's access to translation services.

¹⁹ See State of New York Contract # PS65923

²⁰ Noted languages include, but are not limited to, Spanish, Chinese, Italian, French and French Creole.

²¹ Such posted notices would advise of the Town's LEP Plan and the availability of interpretation or translation services that are offered free of charge in languages that LEP persons would understand.

utilizing language identification cards, and the Town requesting employee feedback about employee interaction with the public and the need for LEP services.²²

In addition to utilizing the aforementioned company, the Town also offers staff training, with regards to providing information about the Title VI Policy and LEP responsibilities. Such training would also include a description of language assistance services that are offered to the public, the use of language identification cards, documentation of language assistance requests, and how to handle a potential LEP (and any other Title VI) complaint.

ORGANIZATION AND STAFFING

The Commissioner of Housing and Human Services serves as the Town of Brookhaven's Title VI Coordinator and is charged with overseeing the implementation of the Town's external and internal Civil Rights program activities to ensure equal opportunity for all. The implementation of the Town's external and internal Civil Rights program includes monitoring and implementing the Town's Title VI programs and activities in compliance with following: the Americans with Disabilities (ADA) Act guidelines; Executive Order No. 12898, regarding Environmental Justice; and Executive Order No. 13166, regarding Persons with Limited English Proficiency.

The Office of Civil Rights, hereafter referred to as "OCR," is primarily tasked with promoting compliance with the U.S. Department of Transportation regulations, hereafter referred to as "USDOT," and the Federal Highway Administration's Title VI policies and mandates, hereafter referred to as "FHWA." Specifically, OCR is responsible for developing procedures and guidance documents to assist the Town, and therefore its sub-recipients, to comply with the USDOT and FHWA policies and mandates. Therefore, when the Town is providing training to ensure compliance with Title VI requirements, such training should encompass the following: the identification and elimination of discriminatory activities and practices, or the absence or neglect of certain activities and practices that could have a discriminatory outcome.

²² Town employees and sub-recipients are to be periodically, and informally, surveyed on their experience concerning any contacts with LEP persons. One example suggested by the OCR on how to gather such information is when the Town or a sub-recipient holds a program or activity, a staff member can be available to greet participants as they arrive. The theory, as put forth by the OCR, is that by informally engaging participants in conversation, it is possible to gauge each attendee's availability to speak and understand English; even though translation services may not be available at that time or event, it will help identify the need for future events.

PROCESS TO IDENTIFY AND ELIMINATE DISCRIMINATION

The Town has developed written Affirmative Action Plans for minorities, women, people with disabilities, and disabled veterans and veterans of the Vietnam Era. These plans are available for review during regular business hours. At the Town, within the Department of Housing and Human Services, Diana Weir, Commissioner of said department, is responsible for administering the Affirmative Action Programs. This person is also responsible for conducting an analysis of all personnel actions to ensure equal opportunities and for submitting reports on the progress of the Town's equal opportunity efforts. Sexual harassment, or any other kind of harassment, including harassment based on sexual orientation, will not be tolerated.

The Town's Title VI discrimination complaints procedure is still the primary vehicle by which it pursues allegations of discrimination. The Town makes a concerted effort, through training and program oversight, to eliminate discrimination when found to exist. The Town investigates such allegations, and if proven to exist, will take the appropriate corrective action. Thus, training and education are primary deterrents of discrimination, which underscores how personal and organizational attitudes and behaviors can shape and/or deter allegations of discrimination.

TITLE VI TRAINING

OCR continues its coordination, facilitation and delivery of Title VI related training for internal and external partners, including the Town's program areas and Federal aid sub-recipients. In this regard, OCR utilizes both classroom and on-line training methods. Also, OCR staff and Title VI Coordinators receive training and are able to attend presentations, workshops, and access on-line resources to expand its knowledge and understanding of Title VI issues. To further the Town's goals and ensure the training of its employees, Town employees are provided with an "Employee Annual Education Form" (as attached hereto in Appendix B), which provides an overview of the Town's Title VI Policy. Furthermore, each Town employee is to complete an "Employee Acknowledgment of Receipt of the Title VI Plan" (as attached hereto in Appendix C), whereby the employee is to sign and date the form, which is then kept on file with the Town.

TITLE VI MONITORING AND REVIEW PROCESS

The Title VI Program Reviews are a mechanism to monitor how program areas and sub-recipients are complying with Title VI provisions.²³ To ensure compliance, the Town engages in ongoing monitoring and provides direction, training and technical assistance to internal and external sub-recipients.²⁴

The Title VI Program Review for internal Town program areas include a desk review by OCR, in which documentation is collected, compiled and examined. If necessary, OCR staff will meet with responsible program personnel to discuss specific processes and procedures, such as reviewing data collection and complaints.²⁵

In accordance with Title VI requirements, state transportation agencies are required to have procedures in place to ensure nondiscrimination during both pre-award and post-award activities. Given that it is impossible to examine every possible project or activity, the Town agrees to take the initiative and self-monitor and analyze the specific procedures and actions being taken to ensure that such pre-award and post-award decisions are made in a non-discriminatory fashion.

²³ See 23 C.F.R. § 200.9(b)(7)

²⁴ These are examples of means that the Town can use to monitor and ensure compliance, but the Town is not limited to such measures. The terms "monitor" and "monitoring" are used broadly in the Title VI Plan, as there is no authority that concretely defines these terms or the associated obligations of non-Federal recipients. Thus, the Town will uphold its obligation to monitor its sub-recipients, but will do so in a manner deemed appropriate by the Town and in compliance with all Federal, state, town and local laws and ordinances.

²⁵ OCR employs several strategies for ensuring that the Town, as a recipient, and its sub-recipients are in Title VI compliance. A Title VI Program Review process for recipients focuses on documentation of the following major components of a Title VI Program: developing Title VI Assurances, developing a Title VI Policy Statement, appointing a Title VI Coordinator, developing procedures for processing external discrimination complaints, providing the Town with a list of external discrimination complaints, providing accommodations for LEP persons, ensuring nondiscrimination in local projects and the public participation process, collecting and analyzing data to ensure nondiscrimination in the recipient's programs and activities, ensuring that Title VI training is provided to staff and sub-recipients, and promoting nondiscrimination in the award of contracts. When monitoring the Town's program areas, OCR will typically outline the Title VI, ADA, LEP and EJ aspects of the program area to be reviewed. Program reviews examine specific program elements and activities, such as data collection and public outreach. Further action on the part of the Town program area or sub-recipient is not required if the program area or sub-recipient has demonstrated, and documented, compliance. In the event that the Town's program area or sub-recipient cannot demonstrate compliance with Title VI, ADA, LEP or EJ requirements, then OCR will notify the Town in writing and then the Town is required to develop a corrective action plan within ninety (90) days. OCR would monitor the corrective action plan and provide technical assistance to the Town's program area or sub-recipient to ensure that corrective actions are in place. Program monitoring is approached via several methods, including self-monitoring, internal program reviews, and external monitoring.

SUB-RECIPIENT REVIEW PROCEDURES

All sub-recipients, which includes but is not limited to subcontractors and vendors, who receive payments from the Town where funding originated from any federal source, are subject to the provisions of Title VI of the Civil Rights Act of 1964 as amended.

Written contracts shall contain non-discrimination language, either directly or through the bid specification package that becomes an associated and incorporated component of the contract.

INVESTIGATION OF COMPLAINTS

The Title VI complaint procedures are intended to provide aggrieved persons with an avenue to raise complaints of discrimination with regards to Town programs, activities and services, as required by statute. Thus, any person who believes that they or as a member of any specific class of persons, or in connection with any minority contractor, has been subjected to discrimination as prohibited by Title VI of the Civil Rights Act of 1964, may file a complaint.²⁶ A complaint may also be filed by a representative on behalf of such a person.

The Town provides a Title VI Complaint Form, as attached hereto in Appendix D, which may be used by such persons to submit the complaint information. Nevertheless, if complainants would prefer to date and sign a letter, such means will be accepted by the Town, so long as it includes the same information as requested in the Complaint Form.

The complaint must be filed in writing with the Town at the following address in order for the Town to properly receive and investigate any complaints of alleged discrimination:

Town of Brookhaven
Attn: Diana Weir, Commissioner and Title VI Coordinator
Department of Housing and Human Resources
One Independence Hill
Farmingville, New York 11738

The Town also encourages all complainants to certify all mail that is sent through the U.S. Postal Service to ensure that all written correspondence can be tracked. However, the Town also has a

²⁶ As stated in 49 C.F.R. § 21.11(b) (1973)

form letter to forward to complainants to acknowledge receipt of their complaint and to indicate that it is currently being reviewed and investigated, a sample of which is attached hereto in Appendix E, which is to be mailed within seven (7) days of receipt of the initial complaint.

Submission of a Complaint

All complaints alleging discrimination based on race, color, sex, national origin, age, disability, or income status, in a service or benefit provided by the Town will be directly addressed by the Town for investigation. The Town shall also provide the appropriate assistance to complainants, including those persons with disabilities, or who are limited in their ability to communicate in English. Also, the Town shall make every effort to address all complaints in an expeditious and thorough manner.

In all situations, the Town's employees must contact the same immediately upon receipt of Title VI related statute complaints. An employee's failure to follow-up may result in disciplinary action.

Investigation of the Complaint

The Town's Title VI Coordinator has overall responsibility for the discrimination complaint process and procedures. The Title VI Coordinator may, at her discretion, assign a capable person to investigate the complaint. The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon information obtained from the course of the investigation.

The investigator assigned shall prepare a written plan, which includes, but is not limited to, the following: names of the complainant(s) and respondent(s); the basis for the complaint; issues, events or circumstances that caused the person to believe that he or she has been discriminated against; information needed to address the issue being alleged; criteria and sources necessary to obtain the information; the identification of key people; the estimated time needed to properly investigate the issues being alleged; and the remedy sought by the complainant.

In conducting the investigation, the investigation will only address those issues relevant to the allegations made in the complaint. Furthermore, confidentiality will be maintained to the extent reasonably possible. Interviews will be conducted to obtain facts and evidence regarding the

allegations in the complaint, and the investigator will ask questions to elicit such information about these aspects of the case. A chronological contact sheet is to be maintained throughout the investigation.

As complaints are being investigated, it may be determined that the Town will have to follow-up with the complainant for additional information. The complainant shall make himself or herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth. Note that any failure on the part of the complainant to provide the requested information will result in the administrative rejection of the complaint.

Once the investigator concludes the investigation, the investigator is to prepare an investigative report and submit said report, along with any supporting documentation, to the Department of Housing and Human Resources, for the Town's Title VI Coordinator's review.

Time Limitations on Filing Complaints

Complaints must be filed within 180 (one-hundred eighty) days of the alleged discrimination. If the complainant could not reasonably be expected to know that the act was discriminatory within the prescribed 180 (one-hundred eighty) day timeframe, then the complainant will have an additional 60 (sixty) days after becoming aware of the illegal discrimination to file the complaint.

The complaint itself must set forth, as fully as possible, the facts and circumstances surrounding the claimed discrimination. In cases where the complainant is unable or incapable of providing a written statement, then the complainant will be assisted in converting the verbal complaint in to a written complaint. However, all complaints must be signed and dated by the complainant and/or the complaint's representative, before such complaint will be considered.

Notification of the Outcome of the Complaint

Once the complaint is fully investigated by the Town, the Title VI Coordinator will send a final written response letter to the complainant, stating that the complaint was either substantiated (see a sample letter in Appendix F) or that the complaint was unsubstantiated (see a sample letter in Appendix G). The Title VI Coordinator shall make such a determination based on the totality of the aforementioned processes.

In the letter notifying the complainant that their complaint was not substantiated, the complainant will also be advised of his or her right to: (a) provide additional information to the Town for further consideration and investigation within 7 (seven) calendar days of receipt of the Town's final written decision; and/or (b) file a complaint externally with the New York State Department of Transportation, the U.S. Department of Transportation, and/or the Federal Transit Administration. The contact information for each of these organizations is provided below:

New York State Department of Transportation
Office of Civil Rights, Title VI Unit
50 Wolf Road, 6th Floor
Albany, New York 12232

U.S. Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Avenue
Washington, D.C. 20590

Federal Transit Administration
Office of Civil Rights
Attn: Title VI Program Coordinator
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Finally, the Town prohibits the retaliation against, or intimidation of anyone, that either takes action or participates in action to secure the rights protected by these laws.²⁷

Town Maintenance of a Complaint Log

The Town maintains a designated Title VI Complaint Log. Through the use of this log, the Town assigns an identifying case number to the complaint, notes the complainant's name and address, the date that the complaint was filed, the alleged basis of the complaint, allows for notes on the status of the complaint, and keeps a record of the final disposition. The information in the Title VI Complaint Log is used to streamline the Town's information and for internal office purposes only.

²⁷ Pursuant to 49 C.F.R. Part 21.11(e), the statute prohibits any form of intimidation, threats, coercion, or discrimination against any person who makes a complaint, testifies, assists, or participates in any manner of the investigation. Also, the statute provides for the identity of the complainant to remain confidential, except to the extent necessary to effect the purpose of investigating and/or resolving the complaint.

DATA COLLECTION AND REPORTING

The Title VI Coordinator will maintain permanent records, which include, but are not limited to, signed "Acknowledgments of Receipt" from the employees indicating receipt of the Town's Title VI Plan, copies of the Title VI complaints or lawsuits and such related documentation, and records of correspondence to and from complainants and Title VI investigations.

With regard to the investigations of complaints of alleged discrimination, all such records and investigative files are maintained in a confidential area and are kept for a minimum 3 (three) years. Copies of any and all complaints, together with a copy of the investigation report and final decision letter will be forwarded to the New York State Department of Transportation, Title VI Coordinator, Office of Civil Rights, within 60 (sixty) days of the receipt date of the complaint.

In addition, state and local transportation agencies are required to have procedures in place to collect and analyze statistical data (including, but not limited to, race, color, national origin, age, sex, and disability). Such data can help inform decision making and avoid inadvertent discriminatory practices.

Most program areas are responsible for collecting and analyzing data in some capacity, and they share the data information collected as part of the annual Title VI reporting process. Data collection and utilizing the information in this manner allows the Town and OCR to better understand how the programs are successful and what strategies could be employed to better leverage data tools and resources.

In addition, data is also collected at public meetings, events and activities. By having participants sign-in, which records the participant's name and other contact information, the information collected is used for Town and department purposes, including but not limited to developing future projects or influencing other department initiatives.

At these meetings, along with a sign-in sheet, the "Title VI Public Involvement Survey" is also made available to participants (see Appendix H for a sample survey form). This survey is voluntary, however the biographical and demographic information collected is analyzed to

ensure that affected communities and interested persons are provided with equal access to programs and activities.²⁸

The Town's Title VI Coordinator is responsible for collecting and maintaining the data. The data, which is collected formally and informally throughout the year, is to be compiled on an annual basis. The subsequent report will be available to the public, upon request, by contacting the Title VI Coordinator and Department of Housing and Human Services, for which such contact information is provided herein.

TITLE VI INFORMATION DISSEMINATION

In order for the Town to adequately disseminate information about Title VI of the Civil Rights Act of 1964, as well as its policy of nondiscrimination, a narrative explaining as much is included in posters that are displayed in Town facilities. An example of such language and information is attached hereto in Appendix I.

Furthermore, the Title VI informational posters shall be prominently and publicly displayed on the Town's website as well as in physical locations associated with applicable sub-recipients, as deemed appropriate. The name of the Title VI coordinator is available on the Town's website, at <http://www.brookhaven.org/Departments/Housing-Human-Services>. Additional information relating to the Town's nondiscrimination obligations can be obtained from the Town's Title VI Coordinator.

Title VI information shall be disseminated to the Town's employees annually via the Employee Education form (as aforementioned, see Appendix B) in payroll envelopes. This form reminds employees of the Town's policy statement, and of their Title VI responsibilities in their daily work and duties. During New Employee Orientation, new employees shall be informed of the provisions of Title VI and the Town's expectations for them to perform their duties accordingly. All employees shall be provided a copy of the Title VI Plan and are required to sign and return the Acknowledgment of Receipt (as aforementioned, and as attached hereto in Appendix C).

²⁸ Federal regulation 23 C.F.R. Part 200.9(b)(4) requires that all state departments of transportation develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of, state transportation programs, such as relocatees, impacted citizens, and affected communities.

ADDITIONAL RESOURCES

To access the authorities that were compiled to create the aforementioned Title VI Plan, reference the following leading legal resources:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.)
- Section 162(a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. § 324)
- Age Discrimination Act of 1975
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Civil Rights Restoration Act of 1987
- 49 C.F.R. Part 21
- 23 C.F.R. Part 200
- USDOT Order 1050.2
- Executive Order No. 12898 (Environmental Justice)
- Executive Order No. 13166 (Limited English Proficiency)

Note that while an Executive Order has the force of a law, a lawsuit may not be brought under an Executive Order. For additional guidance and useful links, reference the following website:
<http://www.fhwa.dot.gov/civilrights/programs/tvi.cfm>

Appendix A

CLAUSES AND TERMS TO INCLUDE IN CONTRACTS SUBJECT TO TITLE VI²⁹

During the performance of this Agreement, the [entity name], for itself, its assignees and successors in interest (hereinafter referred to as “Contractor”) agrees to as follows:³⁰

Compliance with Regulations. The Contractor shall comply with the terms and conditions and Regulations relative to non-discrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter referred to as “USDOT”), 49 C.F.R. Part 21, and the Federal Highway Administration (hereinafter referred to as “FHWA”), 23 C.F.R. Part 200, as they may be amended from time to time (hereinafter referred to collectively as “Regulations”), which are herein incorporated by reference and made a part of this Agreement.

Non-discrimination. The Contractor, with regard to the work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. Part 21.5, including employment practices when the Agreement covers a program set forth in 49 C.F.R. Part 21 Appendix A and 49 C.F.R. Part 21 Appendix B.

Solicitations for Subcontractors, including Procurements of Materials and Equipment. In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, which includes procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this Agreement and the Regulations relative to non-discrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

²⁹ These are general clauses and terms, revised October 2010, that should be included in Agreements between the Town and its sub-recipients. However, different types of contracts may require additional terms and conditions as required by, and as deemed to be in compliance with, Title VI and additional Federal laws and regulations. For example, these include but are not limited to the following types of contracts: contracts involving deeds and the transfer of United States property; contracts for the transfer of real property acquired or improved under the activity, a facility or program receiving Federal financial assistance (i.e. deeds, licenses, leases, permits, or similar instruments); and contracts for the construction, use, and/or access to real property that was acquired under the activity, facility or program receiving Federal financial assistance.

³⁰ Terms to be modified and integrated accordingly into the appropriate Town contracts; the substance of the clauses must appear in the contracts to indicate compliance with Title VI.

Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the FHWA, New York State Department of Transportation (hereinafter referred to as "NYSDOT"), Federal Transit Administration (hereinafter referred to as "FTA"), the Federal Aviation Administration (hereinafter referred to as "FAA"), and/or the Federal Motor Carrier Safety Administration (hereinafter referred to as "FMCSA"), to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required of the Contractor, which information is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the NYSDOT, FHWA, FTA, FAA, and/or FMCSA as deemed appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance. In the event of the Contractor's non-compliance with the non-discrimination provisions of this Agreement, the NYSDOT shall impose such contract sanctions as it, or the FHWA, FTA, FAA and/or FMCSA, may deem to be appropriate, including but not limited to: (a) the withholding of payments to the Contractor under the terms of the Agreement until the Contractor complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

Incorporation of Provisions. The Contractor shall include the provisions of these paragraphs, both the aforementioned and the present, in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the NYSDOT, FHWA, FTA, FAA and/or FMCSA may direct as a means of enforcing such provisions including sanctions for non-compliance. In the event that a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the NYSDOT to enter into such litigation to protect the interests of the NYSDOT and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

During the performance of this Agreement, the [entity name], for itself, its assignees and successors in interest (hereinafter referred to as "Contractor") agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

Title VI of the Civil Rights Act of 1964³¹ (42 U.S.C. § 2000d et seq.) and 49 C.F.R. Part 21³²; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970³³ (42 U.S.C. §4601); Federal-Aid Highway Act of 1973³⁴ (23 U.S.C. § 324 et seq.); Section 504 of the Rehabilitation Act of 1973³⁵ (29 U.S.C. § 794 et seq.), as amended, and 49 C.F.R. Part 27³⁶; the Age Discrimination Act of 1975³⁷ (42 U.S.C. § 6101 et seq.), as amended; Airport and Airway Improvement Act of 1982³⁸ (49 U.S.C. § 47123), as amended; the Civil Rights Restoration Act of 1987³⁹ (P.L. 100-209); Titles II and III of the Americans with Disabilities Act, as implemented by Department of Transportation regulations pursuant to 49 C.F.R. Parts 37 and 38⁴⁰; 42 U.S.C. § 47123⁴¹; Executive Order No. 12898⁴², Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; Executive Order No. 13166⁴³, Improving Access to Services for Persons with Limited English Proficiency; and Title IX of the Education Amendments of 1972⁴⁴ (20 U.S.C. § 1681 et seq.), as amended.

³¹ As discussed at length herein, this Act prohibits discrimination on non-merit based factors. The Town has maintained the position that discrimination is prohibited on the basis of race, color, sex, national origin, age, marital status, disability, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service or any other non-merit based factor.

³² Entitled "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964."

³³ Prohibits unfair treatment of persons who are displaced or whose property has been acquired because of Federal or Federal-aid programs and projects.

³⁴ Prohibits discrimination on the basis of sex.

³⁵ Prohibits discrimination on the basis of disability.

³⁶ Entitled "Nondiscrimination on the basis of Disability in Programs or Activities Receiving Federal Financial Assistance."

³⁷ Prohibits discrimination on the basis of age.

³⁸ Prohibits discrimination on the basis of race, creed, color, national origin, or sex.

³⁹ Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs" and "activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs and activities are Federally funded or not.

⁴⁰ These provisions prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (see 42 U.S.C. §§ 12131 – 12189).

⁴¹ The Federal Aviation Administration's non-discrimination statute, which prohibits discrimination on the basis of race, color, national origin, and sex.

⁴² Executive Order No. 12898 ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

⁴³ Executive Order No. 13166 provides for agency guidance and seeks to ensure that Limited English Proficiency persons are not discriminated against because of their national origin or non-fluency in English. To ensure compliance with Title VI, the Town must take reasonable measures to ensure that LEP persons have "meaningful access" to the programs being offered.

⁴⁴ Prohibits discrimination on the basis of sex in educational programs and activities.

Appendix B

EMPLOYEE ANNUAL EDUCATION FORM

Town of Brookhaven's Title VI Policy

It is the policy of the Town of Brookhaven, hereafter referred to as "Town", to prevent and eliminate discrimination on the basis of race, color, sex, national origin, age, marital status, disability, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service or any other non-merit based factor, in any and all of its operations and services, as well as all aspects of employment. It is also the policy of the Town to administer all phases of its personnel activity, including recruitment, hiring, placement, upgrading, training, promotion, transfer, separation, recall, compensation, benefits, education, recreation, and all other conditions or privileges of employment without regard to the aforementioned protected groups of persons.

All employees of the Town are expected to observe this policy in their daily work and duties. If a citizen approached you with a complaint, direct him or her to Diana Weir, Commissioner of the Department of Housing and Human Services, and Title VI Coordinator.

Appendix C

EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT OF THE TITLE VI PLAN

I hereby acknowledge the receipt of the Town of Brookhaven's Title VI Plan. I have read the Plan and I am committed to ensuring that no person is excluded from participation in, or denied the benefits of, the Town of Brookhaven's services on the basis of race, color, sex, national origin, age, marital status, disability, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service or any other non-merit based factor, as provided by Title VI via either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA), or the Federal Railroad Administration (FRA).

Employee Signature

Print Name

Date

Appendix D

TITLE VI COMPLAINT FORM

If you feel that you have been discriminated against by the Town of Brookhaven, please provide the following information in order to assist us in processing your complaint and send it to the address provided:

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, sex, national origin, age, marital status, disability, sexual orientation, parental status, family medical history or genetic information, political affiliation, military service or any other non-merit based factor, be excluded from participation in or be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

1. Your Name and Address:

Name: _____

Address: _____

Telephone No.: Home _____ Mobile _____ Work _____

2. Person(s) Discriminated Against, if different from above:

Name: _____

Address: _____

Telephone No.: Home _____ Mobile _____ Work _____

Please Explain your Relationship to this Person: _____

Check off the appropriate category as to which your complaint pertains, and then provide a description, explaining as clearly as possible, what occurred and why you believe it happened and how you were discriminated against. Provide the name(s) of and witness(es) or other person(s) involved in the alleged discrimination.

3. Does your complaint concern discrimination in the delivery of services or in other discriminatory actions of the department or agency in its treatment of you or others?

_____ Race/Ethnicity	_____ Income Status
_____ Sex	_____ Disability
_____ National Origin	_____ Age

Explain: *(If necessary, attached additional sheets of paper)*

Please list below any persons (witnesses, employees or others), if known, whom we may contact for additional information to support or clarify your complaint. Include name, address, and a phone number.

4. What is the most convenient time and place for us to contact you about this complaint?

5. To the best of your recollection, on what date(s) did the alleged discrimination take place?

Earliest Date of Discrimination: _____

Most Recent Date of Discrimination: _____

6. Complaints of discrimination must be filed within 180 (one-hundred eighty) days of the alleged discrimination. If the most recent date of discrimination, as noted above, is more than 180 (one-hundred eighty) days ago, then you may request a waiver of the filing requirement. If you wish to request a waiver, please use the space below to explain why you waited until now to file your complaint.

7. Do you have any other information that you think is relevant to our investigation of your allegations?

8. What remedy are you seeking for the alleged discrimination?

9. Have you, or the person allegedly discriminated against, filed the same or any other complaints with other governmental offices (including, but not limited to, the Federal Transit Administration, Federal Highway Administration, or the Department of Civil Rights)?

_____ Yes _____ No

If yes, please state the name, address, and contact information of the agency where the complaint was filed and the current status of that complaint:

Agency: _____

Contact Person: _____

Address: _____

Telephone Number: _____

10. If you have an attorney representing you concerning the matters raised in this complaint, please provide the following information:

Attorney Name: _____

Address: _____

Office Telephone No.: _____

11. We cannot accept a complaint if it has not been signed. Please sign and date the complaint form below.

Signature

Date

Print Name

Please return the completed form to:

Town of Brookhaven
Attn: Diana Weir, Commissioner and Title VI Coordinator
Department of Housing and Human Resources
One Independence Hill
Farmingville, New York 11738

The Town encourages all persons to certify their complaints for all mail being sent through the U.S. Postal Service as to ensure that all written correspondence can be tracked.

This form may be used to file a complaint with the Town of Brookhaven based on Title VI of the Civil Rights Act of 1964. However, you are not required to use this form; a letter that provides the same information may be submitted to file your complaint.

Note: The Town of Brookhaven prohibits retaliation or intimidation against anyone who takes action or participated in action to secure the rights protected by the Town's policies. Please inform the Town of Brookhaven's Personnel Department if you feel you were intimidated or experience perceived retaliation with regards to filing this complaint.

Appendix E

TITLE VI COMPLAINT FORM ACKNOWLEDGMENT

[Date]

[Complainant's Name]
[Address]
[City, State, Zip Code]

Dear Mr./Mrs. [Complainant's Name]:

This letter is to acknowledge receipt of your complaint against the Town of Brookhaven alleging acts of discrimination.

An investigation is underway. If you have any additional information that you wish to convey or questions concerning this matter, please feel free to contact the Department of Housing and Human Services, at 631-451-6600, or in writing to the Town of Brookhaven, One Independence Hill, Farmingville, New York 11738.

Thank you.

Sincerely,

Diana Weir, Commissioner
Department of Housing and Human Resources
Title VI Coordinator

Appendix F

LETTER TO NOTIFY THAT COMPLAINT IS SUBSTANTIATED

[Date]

[Complainant's Name]
[Address]
[City, State, Zip Code]

Dear Mr./Mrs. [Complainant's Name]:

Previously you contacted the Town of Brookhaven in your letter dated _____, whereby you filed a complaint against the Town alleging a Title VI violation.

Upon further investigation, a violation of Title VI of the Civil Rights Act of 1964 appears to exist. Efforts are underway to correct the deficiencies that were identified.

Thank you for calling this important matter to the Town's attention. If an administrative hearing is necessary you may be contacted by this office, or from federal authorities.

Thank you.

Sincerely,

Diana Weir, Commissioner
Department of Housing and Human Resources
Title VI Coordinator

Appendix G

LETTER TO NOTIFY THAT COMPLAINT IS UNSUBSTANTIATED

[Date]

[Complainant's Name]

[Address]

[City, State, Zip Code]

Dear Mr./Mrs. [Complainant's Name]:

The matter referenced in your complaint, dated _____, which alleges Title VI violations against the Town of Brookhaven, has been investigated.

The outcome of the investigation indicates that the provisions of Title VI of the Civil Rights Act of 1964 have not been violated. As you know, Title VI prohibits discrimination based on race, sex, income status, disability, age, or national origin in any program receiving federal financial assistance.

The Town of Brookhaven has analyzed the materials and facts pertaining to your case as potential evidence of the Town's failure to comply with any of the Civil Rights laws. However, upon further investigation, there was no indication that any of these laws have been violated.

Therefore, at this time, your complaint has been deemed to be unsubstantiated, and the file on this matter will be closed.

You have the right to (a) provide additional information to this office within seven (7) calendar days of receipt of this final written decision from the Town, which would enable the Town to reconsider your complaint, and/or (b) file a complaint externally with the U.S. Department of Transportation, the New York State Department of Transportation and/or the Federal Transit Administration at:

New York State Department of Transportation
Office of Civil Rights, Title VI Unit
50 Wolf Road, 6th Floor
Albany, New York 12232

U.S. Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Avenue
Washington, D.C. 20590

Federal Transit Administration Office of Civil Rights
Attn: Title VI Program Coordinator
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Thank you for taking the time to contact us. If I can be of any assistance to you in the future,
please do not hesitate to contact me.

Sincerely,

Diana Weir, Commissioner
Department of Housing and Human Resources
Title VI Coordinator

Appendix H

TITLE VI PUBLIC INVOLVEMENT SURVEY

TITLE VI PUBLIC INVOLVEMENT SURVEY

Completing this form is voluntary but encouraged.

You are not required to provide the information requested in order to participate in this meeting.

Title VI of the Civil Rights Act of 1964 requires the New York State Department of Transportation (NYSDOT) and the Town of Brookhaven to provide opportunities for everyone to comment on transportation programs and activities that may affect their community. *Title VI specifically states that, "No person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefit of, or otherwise be subjected to discrimination under any program, service, or activity receiving federal financial assistance."*

By completing this form, you are assisting NYSDOT and the Town of Brookhaven to comply with all Title VI and related statutes, which require the collection of statistical data to aid in assessing the Town's outreach efforts among those who are affected or interested in this project.

The Town's Title VI Coordinator will handle all information confidentially. Please contact Diana Weir, Commissioner of the Department of Housing and Human Services and Title VI Coordinator, at 631-451-6600, if you have any questions or concerns regarding this form.

Meeting Purpose: _____

Location: _____ **Date:** _____

Please check all that apply. Indicate Gender and Race/Ethnicity.

	List Zip Code	Sex: M/F	White	African American	Hispanic/ Latino	Asian	Native American	2 or More Races	Other
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

THANK YOU FOR YOUR PARTICIPATION!

Appendix I

**SAMPLE NARRATIVE FOR INCLUSION IN POSTERS TO BE DISPLAYED IN
TOWN OF BROOKHAVEN FACILITIES**

Town of Brookhaven Nondiscrimination Public Notice

Title VI of the Civil Rights Act of 1964

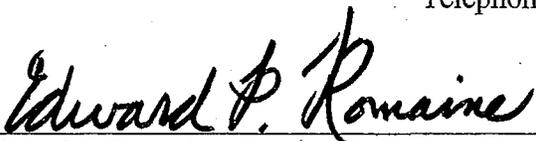
The Town of Brookhaven hereby gives public notice of its **Nondiscrimination Policy** to ensure compliance with Title VI of the Civil Rights Act of 1964, as amended, and as supplemented by all related statutes and regulations, which applies to any and all Town services, programs, and activities that are Federally funded.

Any person who believes that he or she has individually, or as a member of any specific class of persons, been excluded from participation in, been denied the benefits of, or otherwise been subjected to discrimination under any Town service, program or activity, and believe that the discrimination is based on race, color, national origin, gender, age, income, disability or limited ability to speak English, has the right to file a formal complaint.

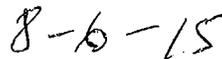
Complaints will be accepted in writing and may be filed with the Town's Title VI Coordinator within 180 days from the date of the alleged act of discrimination.

For more information and for a Title VI Complaint Form and instructions on how to file a discrimination complaint, access our website at www.brookhaven.org, or write to the address below. If this notice is needed in another language, contact our office at:

Town of Brookhaven
Attention: Diana Weir, Commissioner and Title VI Coordinator
Department of Housing and Human Services
One Independence Hill, Farmingville, NY 11738
Telephone: 631-451-6600



Edward P. Romaine, Supervisor
Town of Brookhaven



[dated]

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2018-0136
MEETING: FEBRUARY 8, 2018

AMENDING RESOLUTION 2018-0123
"ADOPTION OF TOWN OF
BROOKHAVEN TIMEKEEPING POLICY
AND STANDARD OPERATING
PROCEDURES FOR 2018"

WHEREAS, by resolution 2018-0123 adopted January 25, 2018, the Town Board of the Town of Brookhaven set the "Town of Brookhaven Timekeeping Policy and Standard Operating Procedures for 2018"; and

WHEREAS, the Town Board is now desirous of amending the "Town of Brookhaven Timekeeping Policy and Standard Operating Procedures for 2018".

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Brookhaven that the "Town of Brookhaven Timekeeping Policy and Standard Operating Procedures for 2018" are hereby amended as set forth in the attached, effective immediately.

TOWN OF BROOKHAVEN TIMEKEEPING POLICY and PROCEDURES

I. PURPOSE

To establish policy and procedures to improve the accuracy of employee timekeeping and time sheet approvals, and to provide guidance regarding the recording and approval of time worked and accruals taken.

II. SCOPE

The Timekeeping policy applies to all employees of the Town of Brookhaven who complete a manual time sheet, both those who account for and certify their hours worked and accruals utilized, and those who review and approve employee time sheets.

III. OBJECTIVE

The primary objectives of the Town of Brookhaven Timekeeping Policy and Procedures are to:

- Ensure employee time sheets comply with Town Management Policy, Collective Bargaining Agreements, and applicable legal requirements,
- Reflect accurately an employee's attendance, hours worked, lunch time taken, and accruals earned and utilized,
- Require adequate review and certification of employee hours worked and accruals taken by Direct Supervisors and Commissioners (or their delegates),
- Enhance the audit and control of manual time sheets in the Town's payroll processing function, and
- Support the accurate capture of employee time, accounting, and reporting of reliable and timely financial information.

IV. DELEGATION OF AUTHORITY

Brookhaven Town Code, Chapter 20-15, establishes the position of Town Supervisor with specific administrative powers and duties. The Code identifies the Supervisor as the chief administrator of the Town. The Supervisor is responsible to manage the affairs of the Town with regard to organizational problems, personnel, labor relations and all other matters related to the administration of Town government. The Supervisor has the authority to establish written procedures and systems for the operation of the employee time and attendance management consistent with New York State Town Law, Brookhaven Town Code and this policy. Such procedures shall include internal controls to provide a satisfactory level of accountability based upon generally accepted accounting principles and best

practice. In addition, the internal control procedures shall describe the responsibilities and levels of authority for key individuals involved in the time and attendance system.

V. EMPLOYEE TIMEKEEPING POLICY

The Official Record of an Employee's time worked consists of a manually prepared time sheet, with the exception of Elected Officials, appointed board members, and Landfill employees who utilize a biometric device to record their time.

All employees who prepare a manual time sheet to receive pay must keep an accurate record on the department prescribed timekeeping form of their attendance as present or not, and actual time worked. The time sheet must indicate the actual time that the employee:

- began their Regular work day or other authorized location,
- ended their Regular work day,
- began their Overtime and Purpose,
- ended their Overtime and Purpose, and
- utilized an accrual Hour.

If the employee was not present for work, then the employee must indicate on the time record either:

- the type of accrual utilized (vacation, sick, personal, etc.), or
- administrative leave and reason and hours worked (leave of absence with or without pay, education program, business meeting, etc.);

As set forth in the July 21, 2016 "Meal Periods" memorandum, all employees, who are authorized by the department head or his/her designee, to work through the meal period is required to complete a form stating the date the employee worked through the meal period, why this was necessary and who authorized it. The "Meal Periods" memorandum and the form are both attached hereto.

Any work, performed as part of the employee's duties on behalf of the Town, from home requires advance, written approval from the Office of the Supervisor.

The manual time sheets must be maintained accurately on a regular basis by the employee and completed timely. Once completed by the employee, the manual time sheet must be reviewed and approved by the employee's Direct Supervisor, compared to the departmental attendance calendar and certified as accurate, and reviewed and approved by the Department Commissioner or delegate.

Once the employee time sheet has been completed and approved, it is submitted to the Payroll Division in the Department of Finance for review and audited for statistical accuracy, and manually entered into the financial system for processing of employee payments.

VI. OVERVIEW OF TIMEKEEPING PROCESS

- A manual time sheet is prepared and signed by individual employees, certifying via their signature that the record of time worked, lunch and breaks taken, and accruals taken, is accurate;
- The manual time sheet is reviewed and certified for accuracy by the Direct Departmental Supervisor, the administrative departmental employee who maintains the department attendance calendar, and the Department Commissioner or delegate;
- Time sheet signatures and or initials by above serve as evidence of certification of the accuracy of the time worked by the employee for purposes of payment to the employee;
- Certified time sheets must be forwarded to the Payroll Division within the Finance Department on a timely basis to support the bi-weekly payment to employees;
- The Payroll Division of the Finance Department will audit for time calculations accuracy, Town holidays and other closures, and completeness, before the manual data entry of the time and accrual data on the employee time sheet into the financial payroll financial system for processing of payment to the employee on a bi-weekly basis.

VII. EMPLOYEE TIMEKEEPING PROCEDURES

In accordance with the above policy and process, manual employee time sheets must be prepared and approved in accordance with below procedures.

Department prescribed *manual* time sheets must be accurately maintained and completed by designated employees on a ***daily basis when such employee is present at the designated town facility***, indicating:

- Actual start time and end time at the prescribed work station, which accounts for Regular hours worked, if present,
- Actual start and end time of Overtime hours worked, with indications of reason for overtime such as emergency, capital projects, reimbursable, compensatory, etc, as required by the department;
- Accruals utilized (personal, vacation, sick time, etc.), Leave of Absence, or Administrative Leave if not present;

At the end of the bi-weekly time period, the manual time sheets must be completed and signed by employees certifying their accuracy, and submitted to their Direct Supervisor for review and approval.

The employee's Direct Supervisor will review the time sheet and certify its accuracy through their signature for:

- accuracy of attendance;

- start and end times of the regular day worked;
- start and end times of approved overtime worked;
- meal periods;
- accruals utilized;

The Direct Supervisor will forward the certified time sheet to the Departmental Time Sheet Administrator to verify daily attendance against the Departmental Employee Attendance Calendar, and the Administrator will sign the time sheet to certify accuracy of attendance.

The Time Sheet Administrator will forward the certified time sheet to the Department Commissioner (or Delegate) for final review and certification of accuracy.

The Certified Time Sheet will then be forwarded to the Payroll Division within the Finance Department for payment to the employee.

TO: All Department Heads

FROM: Matthew Miner, Chief of Operations
Emily Pines, Chief of Staff

RE: Meal Periods

DATE: July 21, 2016

It has come to our attention that all employees may not be taking their required meal break. Failure to insure that this occurs could have significant consequences, whether the result of a violation of our collective bargaining agreements, or the New York State Labor Law. It is therefore extremely important that the following be adhered to.

The Blue Collar contract mandates that employees work from 8:00 a.m. - 4:30 p.m. (except when there has been agreement to vary from this), but not to exceed 8 hours per day. The thirty-minute difference represents the required unpaid meal period. Similarly, the White Collar contract mandates that employees work from 9:00 a.m. - 4:30 p.m. (except where there has been agreement to vary from this), but not to exceed 6 ½ hours per day. The one-hour difference represents the required unpaid one-hour meal period. The Highway Unit contract mandates that employees work from 7:00 a.m.-3:30 p.m.(except where there has been an agreement to vary from this) but not to work in excess of 8 hours per day. Again, the thirty-minutes not counted here represent the required unpaid meal period.

The Code Enforcement unit contract requires employees to take an unpaid 30-minute meal period after 6 consecutive hours, unless they are assigned to work a stationary shift by themselves and therefore cannot be relieved. Other part-time and seasonal employees, while not being covered by a collective bargaining agreement, must be provided an unpaid meal period of 30-minutes after working 6 consecutive hours, pursuant to Section 162 of the New York State Labor Law.

Management employees, whose terms and conditions of employment are set forth in the Management Policy Statement, are required to work 35 hours per week, and the hours should be 9:00 a.m.-5:00 p.m. for 7 hours each day. The one-hour difference represents the one-hour meal period. Although certain management employees have fluctuating hours on certain days as a function of their duties, and they may be required to work more than 7 hours on a particular day or more than 35 hours in a particular workweek, they are all required, pursuant to the Labor Law, to take a 30-minute meal period after working 6 consecutive hours.

Going forward, any employee, whether full-time or part-time, and whether union or non-union, who is authorized by their department head or his/her designee, to work through the required meal period, will be required to complete a form stating the date the employee worked through the meal period, why this was necessary, and who authorized it. This form, attached hereto, shall be signed and dated by the employee, and approved by the department head.

Thank you for your anticipated cooperation.



Town of Brookhaven Long Island

Mark Lesko, Supervisor

To: All Employees
Subject: Vehicle Reform Policy

On July 1, 2008, the Town Board of the Town of Brookhaven adopted Resolution No. 630-08 requiring the implementation of the Town Vehicle Standard Operating Procedures and Town Vehicle Usage Rules and Regulations (Town Vehicle Policy) by year-end. The Resolution set forth specific standards and guidelines and appointed and authorized a Committee to develop and promulgate the Town Vehicle Policy, as set forth in the attached.

Pursuant to Town Board Resolution No. 630-08, and as part of the implementation of the Town Vehicle Policy, commencing December 15, 2008 the use of Town vehicles for commutation purposes is prohibited, unless specifically authorized pursuant to the Town Vehicle Policy. The Committee is aware that the implementation of the Town Vehicle Policy may require adjustments by Town Department Heads and Town employees in scheduling employee assignments.

Pursuant to the Town Vehicle Policy, each employee holding a valid driver's license and authorized to drive a Town vehicle is required to sign the form attached to the Town Vehicle Rules and Regulations acknowledging receipt of the Town Vehicle Policy. Department Heads shall forward the completed forms to the Personnel Department.

The Committee, on behalf of the Town Board, appreciates the anticipated cooperation of Town employees in implementing the Town Vehicle Policy. If there are any questions or comments, please do not hesitate to contact in writing the Town Chief of Staff, Brian Beedenbender, on behalf of the Committee.

Thank you.

Office of the Supervisor
Division of Personnel
One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-6633
An Equal Opportunity Employer
www.brookhaven.org

ADOPTED

BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 630-08
MEETING OF: JULY 1, 2008

COMPREHENSIVE VEHICLE REFORM POLICY

WHEREAS, this Administration is committed to a continuing effort to reform Town practices and policies, and saving taxpayer dollars; and

WHEREAS, Brookhaven Town government, consisting of 320 square miles, must make extensive use of automobiles and trucks to perform municipal services; and

WHEREAS, as a result, a significant portion of the Town's annual and capital budget is allocated for the purchase, maintenance, and repair of vehicles, as well as fuel; and

WHEREAS, currently there is no comprehensive vehicle use policy in the Town of Brookhaven setting forth the Standard Operating Procedures and Rules and Regulations pertaining to the assignment/allocation and use of Town vehicles; and

WHEREAS, the establishment of such a policy will save taxpayers millions of dollars in unnecessary expenses; and

WHEREAS, the Town has taken a significant first step towards streamlining, restructuring and restricting Town Vehicle Usage by adopting Town Board Resolution No. 339-08 eliminating authorization for the use of Town Vehicles by forty-five (45) management and supervisory employees for commuting purposes; and

WHEREAS, the Town is in the process of enacting Standard Operating Procedures, which are considered a best practice for local municipalities, and Town Vehicle Usage Rules and Regulations, which shall further provide better management and improve accountability for Town Vehicle Usage; and

WHEREAS, the Town's Standard Operating Procedures will set forth specific standards and guidelines, which shall include:

- Eliminating authorization for the use of Town Vehicles for commuting purposes by Town employees.
- Creation of Departmental Wide Vehicle Pools and Town Wide Vehicle Pools.
- Use of mileage logs.
- Adherence to IRS W-2 reporting for the use of Town vehicles.
- Procedures for Departmental request for vehicles.
- Division of Central Motor Pool duties and responsibilities for the requisition and preparation of vehicles and for the decommissioning and disposal of Town vehicles.
- Establishment of an audit process through Servicestat; and

WHEREAS, the Town Vehicle Usage Rules and Regulations shall also set forth specific standards which shall include:

- Authorizing use of Town Vehicles for only official Town business.
- Maintenance requirements.
- Reporting damage or loss requirements.

NOW, THEREFORE, BE IT RESOLVED, that it is the commitment and intent of the Town Board of the Town of Brookhaven that the Town Vehicle Reform Policy, which shall consist of the Town Vehicle Standard Operating Procedures and Town Vehicle Usage Rules and Regulations, be implemented by December 31, 2008; and be it further

RESOLVED that a Committee consisting of the Town Supervisor, Councilmember of District 2, Councilmember of District 6, the Town Attorney, the Commissioner of Public Safety or their authorized designees are hereby authorized, empowered and directed to promulgate the Town Vehicle Standard Operating Procedures and Town Vehicle Usage Rules and Regulations, which shall include the above standards and guidelines, as necessary and appropriate for the implementation and enforcement of the Town Vehicle Reform Policy.



**Town of Brookhaven
Long Island**

TOB Standard Operating Procedures

Town Vehicles: Standard Operating Procedures (SOP)	Town Vehicles	
	Originating Authority	Town Board
	Date	November 3, 2008
	Revised	August 24, 2009

Town Vehicles: Standard Operating Procedures

Goal	<p>This Standard Operating Procedure (SOP) sets forth the procedures to enable the Town to more efficiently manage and operate its fleet of Vehicles. This SOP provides for the Town of Brookhaven to change from a municipal fleet that consists largely of vehicles personally assigned to Town Elected Officers and Employees, in the performance of official Town business and authorized for commutation as well, to a primarily pooled fleet where vehicles are allotted on an as-needed basis.</p> <p>The desired benefits of a pooled fleet are lower fuel costs, reduced maintenance costs, a smaller and more efficient fleet, and more control over Town-owned vehicles.</p>
-------------	---

Purpose	<p>This SOP establishes a policy for the assignment and transfer of vehicles, the tracking of vehicle usage, and the decommissioning (removal of vehicles from the Town fleet) and disposal of vehicles.</p>
----------------	--

Implementation Date	<p>This SOP shall be implemented in accordance with Town board Resolution No. 630-08, dated July 1, 2008, entitled "Comprehensive Vehicle Reform Policy".</p>
----------------------------	---

	<ul style="list-style-type: none"> • Supervisor • Town Clerk • Town Council • Waste Management <p>Department Heads and the Highway Superintendent shall be responsible for the daily assignment of vehicles within their Departments in order to meet their Department needs and ensure that vehicles are utilized in the best interest of the Town. The Department Head and Highway Superintendent shall designate a Departmental Fleet Liaison who shall ensure adherence to Town Vehicle Policies and Procedures.</p> <p>All employees shall be required to park the Town vehicle at their official office location during non-working hours. All employees shall complete the required mileage logs, in accordance with the requirements, as set forth in the Mileage Logs Section of this SOP, and shall submit the mileage log to their Department Fleet Liaison upon returning the vehicle.</p> <p>All employees are prohibited from using a Town vehicle for commutation to and from work, except those employees assigned a vehicle within the definition of "Qualified non-personal-use vehicles" pursuant to the Department of Treasury, Internal Revenue Service, Publication 15-B, Rev. February 2007, entitled "Employer's Tax Guide to Fringe Benefits" (IRS Publication 15-B)</p> <p>Notwithstanding the above, where an employee is required to conduct official Town business off-site either prior to or after official Town business hours, the employee may use a Town vehicle for commutation upon obtaining the Department Head's written approval; the Department Head's approval shall set forth the specific reasons and the date(s) for the required use and the approval shall be retained in the appropriate Department files. Such official Town business shall include attendance at conferences or seminars, as approved pursuant to Town Board Resolution.</p> <p>Notwithstanding the above, the Superintendent of Highways, in accordance with applicable law, including but not limited to New York State Highway Law Section 142, shall set forth the authorized uses of Highway vehicles and maintain the appropriate records, including mileage logs.</p>
<p>Town-Wide Pool Assignment</p>	<p>The Commissioner of Public Safety shall designate vehicles to a Town-wide pool as set forth herein. A mileage log shall be assigned to each vehicle.</p>

	<p>Pool vehicles should only be utilized when:</p> <ol style="list-style-type: none"> 1) Departments and/or the respective Divisions have not been assigned Department vehicles; or 2) All assigned Department vehicles are in use and additional vehicles are necessary for the Department personnel to perform their official duties. <p>The assignment and use of pool vehicles, which vehicles are covered under the Town's automobile liability insurance policy, will minimize the use of personal vehicles and associated mileage reimbursement.</p> <p>Town pool vehicles will be available upon request and submitted at the following locations:</p> <ul style="list-style-type: none"> ▪ Town Hall ▪ Vehicle Control (Canal Road) <p>All employees are required to return their Town pool cars (keys) to the originating location each day. Upon returning the vehicle, all employees shall complete the required mileage log, in accordance with the requirements as set forth in the mileage log section of this SOP, and submit the mileage log to the Commissioner of Public Safety at Town Hall or to the Division of Central Motor Pool at Canal Road, as applicable.</p> <p>Employees will be reimbursed for the use of their personal vehicles in performing their official duties in accordance with the Town's Mileage Reimbursement policy adopted each year at the annual organizational meeting.</p>
--	--

<p>Procedure for Purchasing Vehicles</p>	<p>Additional or replacement vehicles can only be requested as part of the annual departmental budget request, as part of a new grant proposal, or to meet an unanticipated need. Vehicles may not be requested to replace those decommissioned or transferred at the direction of the Commissioner of Public Safety or the Superintendent of Highway.</p> <p>Vehicles approved in the adopted budget will be purchased by the Division of Vehicle Control or Highway Department, as authorized and in accordance with applicable law, including General Municipal Law and State Finance Law (either bidding or purchase from authorized State or County contracts).</p> <p>Wherever possible, Departments should purchase clean energy/alternative fuel vehicles in order to reduce emissions and achieve even greater levels of efficiencies. Only the most fuel</p>
---	--

	<p>efficient vehicle for the required tasks should be procured.</p> <p>Departments must use the Vehicle Control Inventory Form to request a vehicle. (Appendix A to this SOP).</p> <p>Only standard equipment will be ordered with new vehicles, except where needed for job purposes, i.e. no satellite radio, no navigation systems, etc.</p>
--	---

<p>Vehicle Intake Procedure</p>	<ul style="list-style-type: none"> • The Division of Central Motor Pool (Vehicle Control) or the Highway Department, as applicable, shall be responsible for receiving the vehicle from the vendor. <p>Vehicle Control or the Highway Department will review the purchase order, inspect the vehicle and verify that the vehicle meets the specifications and requirements as set forth in the purchase order and accompanying documents.</p> <ul style="list-style-type: none"> • In the event a vehicle is determined not to be in compliance with the specifications and requirements, Vehicle Control shall notify the Purchasing Division in writing of the discrepancy. (Purchasing Division shall be responsible for resolving any discrepancies and advising Vehicle Control of the resolution.) Highway Department shall resolve with the vendor any discrepancies concerning non-compliance for Highway vehicles. • For vehicles found to be acceptable, Vehicle Control/ Highway Department shall keep the title (if applicable), registration, and a copy of the specifications and requirements. • Vehicle Control/ Highway Department shall enter descriptive data on the vehicle, and the departmental assignment of the vehicle, into the fleet management system. • Vehicle Control/Highway Department shall arrange to have the EJ Ward fuel inventory system installed on the vehicle. • Vehicle Control shall affix Town seals to the sides of vehicles, except for those vehicles that are used for investigation purposes by the Town Attorney's Office. • Vehicle Control/Highway Department shall place vehicle information in each vehicle that includes the following: <ul style="list-style-type: none"> ○ Fleet number ○ VIN (vehicle identification number) ○ License plate number ○ Year, Make, model, color ○ Insurance information ○ Copy of the Town's Vehicle SOP and the Town Vehicle
--	--

	<p>Rules and Regulations for use of Town Vehicles, which includes, in part, the procedures to be followed in the event of an emergency (accident).</p> <ul style="list-style-type: none"> • Vehicle Control shall notify the Department Head that the assigned vehicle is available by completing and forwarding a copy of the Vehicle Control Inventory Form to the Department Head and to the Supervisor's Office.
--	---

Authorized Use of a Town Vehicle	All Elected Officers and Employees shall be required to comply with the Town's Vehicle Usage Rules and Regulations.
---	---

Mileage Logs	<p>All Elected Officers and Employees <u>shall</u> complete mileage logs for every trip in any vehicle, indicating the date, the beginning and ending destinations, the beginning and ending mileage, the mileage pertaining to business and/or personal use and the purpose of the trip. Exceptions to the completion of mileage logs requirement shall be authorized by the Commissioner of the Department of Finance.</p> <p><u>Employees in the CSEA White, Blue and Highway bargaining units are encouraged to complete the mileage logs but this shall not be a requirement. Failure to complete the mileage logs, however, could have an adverse tax impact upon the employee.</u></p> <p>Records must be completed by the close of business each day for any travel.</p> <p>On a monthly basis, the Department Head, Division Head or Highway Superintendent, or his/her designee, will review each vehicle's mileage log to determine the completeness and appropriateness of travel during that month. Any discrepancies in the mileage logs shall be reported to the Commissioner of Public Safety and may be deemed a violation of the Town Vehicle Usage Rules and Regulations.</p> <p>The mileage logs shall be subject to periodic audit by the Department of Finance. Each Department shall submit the required mileage logs to the Department of Finance by January 7th of the following year.</p>
---------------------	--

W-2 Reporting	The 2008 Form W-2 Wage and Tax Statements issued to Elected Officials and Employees shall include the valuation of Town-owned vehicles for use other than official use pursuant to IRS Publication 15-B. (See, Town Vehicle Usage Rules and Regulations). IRS
----------------------	---

	Regulations require that \$0.055 per mile be added to the vehicle valuation for personal use of Town fuel.
--	--

<p>Transfer of Vehicles Between Departments</p>	<p>Transfer of vehicles between Departments and/or employees (excluding Highway Department) shall be at the direction of the Commissioner of Public Safety or authorized designee and occur as a result of:</p> <ul style="list-style-type: none"> • A request for a vehicle by a Department not included in the adopted budget. • As a result of a review of departmental vehicle assignments. <p>Vehicle Control shall:</p> <ul style="list-style-type: none"> • Notify the assigned Department that a specific vehicle must be surrendered to Vehicle Control by a specified date by completing the Vehicle Control Inventory Form and forwarding a copy to the Departmental Fleet Liaison. • Complete repairs as needed and notify the Commissioner of Public Safety and the Department Head of non-compliance with the Town's Rules and Regulations or of any irregularities concerning the vehicle. • Notify the Department receiving the vehicle of the approved transfer by completing the Vehicle Control Form. • Update the Fleet Management System. • Receive the vehicle to be transferred and review the applicable documents to confirm the vehicle's identification. • Inform the Supervisor and/or Deputy Supervisor in writing if the vehicle is either not surrendered by the date indicated or not picked up by the designated Department. <p>The Departmental Fleet Liaison receiving the vehicle shall follow the procedures for obtaining a vehicle.</p>
--	--

<p>Decommissioning of Town Owned Vehicles by Division of Vehicle Control</p>	<p>Departments assigned Town owned vehicles may request that Vehicle Control inspect a vehicle for safety reasons, or request repair through procedures established by Vehicle Control.</p> <p>Vehicle Control/Highway Department, as part of their responsibility to repair vehicles, shall determine if it is cost effective to repair the vehicle. Vehicles determined too costly to repair shall be deemed subject to decommissioning.</p> <p>Vehicles approved for decommissioning shall not be returned to the originating Department, transferred to another Department, or</p>
---	--

	<p>utilized by Vehicle Control/Highway Department.</p> <p>Vehicle Control/Highway Department shall update the Fleet Inventory System to reflect the decommissioned status.</p>
--	--

<p>Disposal of Town Owned Vehicles</p>	<p>Upon a Vehicle being decommissioned, Vehicle Control/Highway Department shall be responsible for the final disposal of all Town owned vehicles by:</p> <ul style="list-style-type: none"> • Transfer to another governmental or public agency via a Town Board resolution. • Sale at public auction by a Town authorized auctioneer. • Sale through a Town authorized automobile salvage or recycling firm. <p>Vehicle Control/Highway Department shall enter date and means of disposal into Fleet Management system and retain all appropriate documentation evidencing such disposal.</p>
---	--



**TOWN OF BROOKHAVEN
VEHICLE USAGE
RULES AND REGULATIONS**

WHEREAS, the Town Board of the Town of Brookhaven hereby establishes a Policy and Standard Operating Procedures governing the use of Town-owned Vehicles by Town Officers and Town Employees; and

WHEREAS, in order to effectively implement the Policy and Procedures, the following Rules and Regulations are hereby established in accordance with Town Board Resolution No. 630-08 dated July 1, 2008, which shall be adhered to by Town Officers and Town Employees for the use of Town-owned Vehicles, and Highway Department Vehicles as set forth herein.

1. Authorized Use:

A. **Elected Officers:** Elected Officers shall have the use of a designated Town-owned Vehicle, as assigned by the Division of Central Motor Pool. The Superintendent of Highways shall have use of a designated Highway Vehicle. The use of the Vehicle as assigned and authorized shall be solely in connection with the Elected Officer's performance of his/her official duties on Town projects, business or Town related matters, and may not be used for any unauthorized use, including personal use. Notwithstanding the above, limited incidental personal use of the Vehicle while in the performance of the Elected Officer's official duties shall not be deemed a violation of this provision. Use of the Town Vehicle for interstate travel shall be prohibited unless authorized by Town Board Resolution.

B. **Employees:** Authorized Employees shall have the use of a designated Town-owned Vehicle/Highway Department Vehicle and the use of the Vehicle provided and authorized shall be solely in connection with the Employee's performance of official duties on Town projects, business or other related matters and may not be used for any unauthorized use, including but not limited to, personal use. Employees, as identified in the Town Vehicles - Standard Operating Procedure, are authorized to use the assigned vehicle for commutation to and from work. Notwithstanding the above, where an employee, is required to conduct official Town business off-site either prior to or after official Town business hours, the employee may use a Town vehicle for commutation upon obtaining the Department Head's written approval; the Department Head's approval shall set forth the specific reasons and dates for the required use and the approval shall be retained in the appropriate Department files. Such official Town business shall include attendance at conferences or seminars, as approved pursuant to Town Board Resolution. Notwithstanding the above, the Superintendent of Highways, in accordance with applicable law, including but not limited to Highway Law Section 142, shall set forth the authorized uses of Highway-Department vehicles and maintain the appropriate records.

Use of the Town Vehicle/Highway Vehicle for travel outside the limits of Suffolk and Nassau Counties, but within the State of New York, shall be prohibited, unless the Employee obtained prior written approval from his/her Department Commissioner, Superintendent of Highways or his/her authorized designee. Use of the Town Vehicle/Highway Vehicle for interstate travel shall be prohibited unless authorized by Town Board Resolution.

C. Town Officers or Employees authorized to utilize a Town Vehicle/Highway Department Vehicle shall not allow any other individual other than a Town authorized employee to operate the Vehicle. The Officer or Employee shall not transport persons who are not officials or employees of the Town or individuals involved in the conduct of official Town business, or transport material not related to the conduct of official Town business.

D. A valid driver's license must be maintained at all times, and a copy on file in the Office of the Division of Personnel. Failure to maintain a valid driver's license may result in the Commissioner of Public Safety or Superintendent of Highways, as applicable, terminating the Elected Officer's or Employee's authorized use of the Vehicle. By using a Town/Highway Vehicle the Elected Officer or Employee represents that there are no restrictions on the use of his/her driver's license, other than eyeglasses. Any changes in license status must be reported to the Division of Personnel immediately. Any suspension or revocation of the Elected Officer's or Employee's driver's license shall be reported in writing to the Commissioner of Public Safety or Superintendent of Highways, as applicable, and the Commissioner or Superintendent, as applicable, shall terminate the use of the vehicle until such time as proof of reinstatement of the Elected Officer's or Employee's driver's license is provided. A copy of Vehicle registration and insurance Identification card shall be kept in the glove compartment at all times.

E. All Town Vehicles/Highway Vehicles must be operated in a safe and responsible manner at all times and in accordance with all applicable laws and rules and regulations. Any violation of this provision or any evidence [i.e. arrest, conviction, plea of guilty or no contest (nolo contendere) allocution] of operation of the Vehicle while under the influence of alcohol or a controlled substance may result in immediate termination of the Vehicle use. The Town Board, by Resolution, may take any action deemed appropriate against the Elected Officer, and the appointing authority may take any action against the Employee as authorized pursuant to applicable law, including Civil Service Law, and/or the applicable Collective Bargaining Unit Agreement.

F. Elected Officers and Employees shall attend a defensive driver training course, as provided by the Town at the Town's expense. Alternatively, if the Elected Officer or Employee has attended such a course within the past three years and obtained a valid certification, then a copy of the certification shall be provided to the Office of the Division of Personnel. Proof of a current valid defensive driver training course certification shall be maintained and on file in the Office of the Division of Personnel.

2. Daily Operation and Maintenance:

A. To the extent possible, only Town fueling facilities, including Highway fueling facilities, shall be utilized, and the use of the Town fueling stations for any other Vehicles shall be prohibited.

B. All Town Vehicles/Highway Vehicles must be locked and secured at all times when not in use.

C. There shall be no smoking in the Town Vehicle/Highway Vehicle.

D. A mileage log for each Vehicle shall be completed by all Town Officers and Employees in accordance with the Standard Operating Procedures for Town Vehicles/Highway Vehicles.

E. The Town Vehicle/Highway Vehicle shall be maintained in satisfactory working condition in accordance with manufacturer's maintenance schedule. All Vehicle maintenance services, including oil changes and annual inspections, shall be performed through the Division of Central Motor Pool or the Highway Department, as applicable. Any Vehicle operation or maintenance concern shall be reported immediately to the Division of Central Motor Pool/Highway Department. In the event that emergency service is required due to the Vehicle being non-operable and the Vehicle cannot be delivered to the Division of Central Motor Pool, the Division of Central Motor Pool must be contacted immediately at 631-473-1664 or Nextel #699 (during normal business hours) or Code Enforcement at 631-451-6161 or Nextel #99 (after normal business hours) to advise that emergency service is required. Required emergency service for Highway Department vehicles shall be reported to 451-9200.

F. If the Vehicle is lost, stolen, or damaged, or if the Vehicle's license plates are lost or stolen, the incident must be reported to the Suffolk County Police Department immediately upon discovery of loss, theft, or damage. In the event the Vehicle is lost, stolen, or damaged while outside Town limits, a report should be made to the police department within the jurisdiction where the event occurred or was discovered. The loss, theft, or damage to the Vehicle or Vehicle license plates must also be reported to the Town's Insurance Manager and the Division of Central Motor Pool (631-473-1664)/Department of Highways (631-451-9200) within twenty-four hours or no later than the next business day following the event. As necessary, the Department of Motor Vehicle's Accident Report Forms shall be completed and filed with the Town's Insurance Manager. Failure to report loss, theft or damage to the Vehicle according to this provision may result in the revocation of the authorized Vehicle use by the Commissioner of Public Safety, Superintendent of Highways and/or disciplinary action.

3. Cessation of Use:

A. All assigned Vehicles must be returned to the Division of Vehicle Control or Highway Department, as applicable, in satisfactory working condition upon the end of the Elected Officer's term or upon the Employee's resignation, retirement or termination.

B. The Town, through the Commissioner of Public Safety, reserves the right to terminate the authorized use of any Vehicle ; and upon such termination the Vehicle must be returned to the Division of Central Motor Pool within twenty-four hours or not later than the next business day following such termination.

C. The Superintendent of Highway may terminate the authorized use of any Vehicle ; and upon such termination the Vehicle must be returned to the Highway Department within twenty-four hours or not later than the next business day following such termination.

D. Notwithstanding the above, in the event the Vehicle use is terminated due to a violation of the Town's Policy and/or Rules and Regulations, the Vehicle shall be returned to the Division of Central Motor Pool within twenty-four hours or not later than the next business day to the Division of Central Motor Pool or Highway Department, as applicable.

4. Violation of Town Policy and/or Rules and Regulations

The Town Board reserves the right to take any and all action pursuant to law for any violations of the Town's Policy and/or Rules and Regulations by any Town Board appointees. The appointing authority reserves the right to take any and all action, or pursuant to law, including Civil Service Law and the applicable Collective Bargaining Unit Agreement, for any violations of the Town's Policy and/or Rules and Regulations.

**ACKNOWLEDGEMENT OF RECEIPT OF TOWN OF BROOKHAVEN
VEHICLE USAGE RULES AND REGULATIONS**

Name of Elected Official: _____

Name of Employee: _____

Signature: _____

Date: _____

By signing, the Elected Official or Employee hereby acknowledges receipt of the Town of Brookhaven's Rules and Regulations on the Usage of Town-owned Vehicles/Highway Vehicles.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2015-0062
MEETING: JANUARY 8, 2015

AMENDING THE TOWN OF
BROOKHAVEN'S "STANDARD
OPERATING PROCEDURE" AND
"RULES AND REGULATIONS FOR THE
USE OF TOWN VEHICLES" IN
CONNECTION WITH THE VEHICLE
REFORM POLICY

WHEREAS, the Town Board in 2008 approved Resolution 630-08 which established a vehicle reform policy by creating a "Standard Operating Procedure" and "Rules and Regulations for the use of Town Vehicles"; and

WHEREAS, for economic, environmental and mechanical considerations the Town Board seeks to prohibit the idling of town vehicles; and

WHEREAS, considering there is an obligation to operate town vehicles safely and legally, the Town Board finds it necessary to add the requirement that all employees are financially responsible for all citations or moving violations while operating a town vehicle.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Brookhaven that in consideration that idling wastes fuel, pollutes the environment and creates undue wear on engines and in consideration that NYS Environmental Conservation Law currently prohibits idling, with few exceptions, for those vehicles over 8500 lbs. GVWR, the "Rules and Regulations for the Use of Town Vehicles" are hereby amended to include "Idling for more than five (5) minutes by and town vehicle, irrespective of its weight, is prohibited. Such prohibition shall not apply to those exceptions outlined in TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION Subpart 217-3.3 Idling Prohibition for Heavy Duty Vehicles. In no case shall any vehicle be left idling while unattended by the responsible driver"; and be it further

RESOLVED the "Rules and Regulations for the Use of Town Vehicles" are hereby amended to include "Any elected official or employee that incurs a citation or moving violation while operating a town vehicle shall report it and be financially responsible for any fines or fees levied as a result of such citation or violation."

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2018-0837
MEETING: OCTOBER 25, 2018

AUTHORIZATION FOR THE TOWN OF
BROOKHAVEN TO ADOPT THE NEW
YORK STATE MANDATED "SEXUAL
HARASSMENT PREVENTION POLICY"
PURSUANT TO NEW YORK LABOR
LAW SECTION 201-G

WHEREAS, every employer, including Towns, in the State of New York is required to adopt a Sexual Harassment Prevention Policy pursuant to New York State Labor Law Section 201-g; and

WHEREAS, Towns are required to have a sexual harassment prevention policy that incorporates at least the minimum requirements set forth by Section 201-g of the New York State Labor Law; and

WHEREAS, the requirements of the policy include having a standard complaint form, providing examples of what constitutes unlawful sexual harassment, establishing a procedure on how to investigate complaints, and clearly informing employees what their redress is, both administratively and judicially; and

WHEREAS, employers are now required to provide sexual harassment prevention training annually, such training must adhere to specific standards set out in the legislation, and the first sexual harassment training must be completed before October 9, 2019 and must be annually thereafter.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Brookhaven, that the Town hereby adopts the Sexual Harassment Prevention Policy pursuant to New York State Labor Law Section 201-g; and be it further

RESOLVED, that every employee within the Town of Brookhaven shall receive a copy of the Town's "Sexual Harassment Prevention Policy", a copy of which is available on the Town Shared Drive; and be it further

RESOLVED, that the Town of Brookhaven "Sexual Harassment Prevention Policy" may be updated from time to time, subject to subsequent Town Board Resolution and the review and approval of the Town Attorney's Office; and be it further

RESOLVED, that this Resolution shall be effective immediately.

SEXUAL HARASSMENT PREVENTION POLICY*

*(pursuant to New York State Labor Law Section 201-g)

As part of the Town of Brookhaven's continuing effort to ensure equal employment opportunity based solely on an individual's abilities and qualifications, and consistent with the guidelines issued by the Equal Employment Opportunity Commission (EEOC), the Town of Brookhaven issues this policy prohibiting sexual harassment.

Sexual harassment by any employee, whether or not in a supervisory capacity, against any other employee, paid or unpaid intern, independent contractors, or any persons working for a company that provides services to the Town of Brookhaven, is strictly prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- 1) which is made a term or condition of employment,
- 2) the submission or rejection of which is used as a basis for employment decisions, or
- 3) which has as its purpose or effect the unreasonable interference with work performance or the creation of an intimidating, hostile or offensive environment.

Examples of sexual harassment include:

- a) physical assaults of a sexual nature such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body;
- b) requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance, evaluation, a promotion, or other job benefits or detriments;
- c) subtle or obvious pressure for unwelcome sexual activities;
- d) sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience;
- e) displaying pictures, posters, calendars, graffiti, objects or other materials that are sexually demeaning or pornographic, including such displays on workplace computers or cell phones, and sharing such displays while in the workplace; and
- f) hostile actions taken against an individual because of that person's sex, sexual orientation, gender identity or status of being transgender.

Recognizing that employees of the Town often come in contact with the public, this policy prohibiting sexual harassment, shall also prohibit such conduct by an employee of the Town

against a member of the public when it is either expressly or implicitly a term or condition of that person's entitlement to any benefit or right otherwise afforded to the public under applicable laws, rules and regulations.

The Town of Brookhaven **strongly encourages** those who believe they are victims of sexual harassment prohibited by this policy to come forward and report in writing the circumstances **without fear of retaliation or intimidation**. **Employees** will be given the choice of lodging their complaint with either a male or a female. Due to the sensitive and serious nature of these complaints, those employees who believe they are victims of sexual harassment prohibited by this policy are encouraged to bring their complaint to the attention of the Town Attorney, or his/her designee, who will assist the employee in the preparation of the written statement detailing the complaint. The Town Attorney or his/her designee will immediately initiate and coordinate a thorough and impartial investigation of the matter. Although efforts will be made to protect the confidentiality of all persons involved, such confidentiality cannot always be guaranteed.

Moreover, employees who do not complain about unlawful harassment or who do not fully cooperate in an investigation may be compromising their legal rights. If a determination is made that there has, in fact, been unlawful sexual harassment, appropriate disciplinary action, up to and including termination, will be taken. **Any coercion, retaliation, or intimidation of those who complained of the sexual harassment, who participated in the investigation thereof, or who testified in a proceeding or action involving the sexual harassment, is unlawful and will be grounds for disciplinary action, up to and including termination.** Likewise, false accusations may also result in appropriate disciplinary action.

It shall be the additional responsibility of all supervisors who observe, learn of or suspect a violation of the policy to immediately bring the matter to the attention of the Town Attorney, or his/her designee. **Supervisors who fail to report instances of harassment will be subject to disciplinary action, up to and including termination.**

Aside from the Town of Brookhaven's internal complaint procedure described above, those who believe they are a victim of sexual harassment may:

1. File a complaint with the **New York State Division of Human Rights ("DHR") within one (1) year of the sexual harassment.** DHR enforces New York's Human Rights Law codified at NY Executive Law § 290 et. seq. DHR will investigate the complaint and determine whether there is or is not probable cause to believe that

unlawful sexual harassment has occurred. Where probable cause is determined, the matter is referred to an administrative law judge for a public hearing. If discrimination is found after a hearing, DHR may award relief including, but not limited to, requiring the employer to stop the sexual harassment or redress the damage caused, including the payment of monetary damages, attorney's fees and civil fines. DHR may be contacted at 1-888-392-3644 or by visiting www.dhr.ny.gov/complaint.

Individuals who do not file a complaint with DHR have the right to

2. Commence an action in **New York State Supreme Court** within **three (3) years** of the **unlawful sexual harassment**. Complaining directly to Town of Brookhaven does not extend this time limitation.

The federal Equal Employment Opportunity Commission ("EEOC") enforces various federal anti-discrimination laws including Title VII of the Civil Rights Act, codified at 42 U.S.C. § 2000e et. seq. An individual can:

3. **File a charge of discrimination alleging sexual harassment with the EEOC within three hundred (300) days of the sexual harassment.** The EEOC may investigate the matter, or defer to the investigation conducted by DHR. After the EEOC determines if there is reasonable cause to believe unlawful discrimination has occurred, it will issue a right to sue letter to the individual, permitting the filing of a complaint in federal district court. Although the EEOC does not conduct any administrative hearings, even if it determines that unlawful sexual discrimination has occurred, it can pursue an action in federal court on the individual's behalf. For questions, the EEOC can be contacted at 1-800-669-4000 or by visiting its website at www.eeoc.gov.

Individuals in Suffolk County can also:

4. File complaints of sexual harassment with the **Suffolk County Human Rights Commission** which can be reached at 631-853-5480 or by visiting www.suffolkcountyny.gov/Departments/HumanRightsCommission.

REPORTING PROCEDURES FOR SEXUAL HARASSMENT

If you feel you are the victim of sexual harassment, you should do the following:

COMPLAINT PROCEDURE:

Complaint

- Any employee who believes that he or she has been subjected to sexual harassment, prohibited by the Town of Brookhaven's policy, **has a responsibility to report the sexual harassment** by filing a complaint as soon as possible to a Law Department designated **Unlawful Harassment Officer** at (631) 451-6500.
- A complaint may be made **verbally** or in writing. The Town may request a verbal complaint be reduced to writing with the assistance of an attorney in the Law Department of the Town, as needed.
- Any Department Head, Commissioner, Deputy Commissioner, Manager, Supervisor or other employee who becomes aware of sexual harassment prohibited by the Town's policy **must report it immediately to the Unlawful Harassment Officers. Supervisors who fail to report instances of harassment will be subject to disciplinary action, up to and including termination.**

Confidential Investigation

- All complaints of sexual harassment will be investigated **promptly, thoroughly and impartially** by an attorney in the Law Department or his/her designee. Complainant will be given the choice of lodging their complaint with either a male or female.
- An individual conducting an investigation into a complaint of sexual harassment will **keep information as confidential** as possible, and disseminate it on a **"need to know"** basis only. Others involved in the investigation in any capacity, **including witnesses**, must also respect the privacy of those involved, by keeping information learned during the course of the investigation confidential.
- As soon as practicable after the completion of the investigation, the official responsible for conducting the investigation will prepare a written report with a recommendation and, to the extent appropriate, advise the employee who brought the sexual harassment complaint and the employee accused of sexual harassment of the results of the investigation.

Action

- Anyone who is found, after investigation, to have engaged in sexual harassment prohibited by the Town's policy will be **subject to disciplinary action** up to and including discharge from employment. This policy shall not limit the authority of the Town to take disciplinary action against an employee who engages in inappropriate conduct, regardless of whether it satisfies the definition of sexual harassment under this policy.

Retaliation and Intimidation

- Any coercion, retaliation, or intimidation of those who complained of the sexual harassment, who participated in the investigation thereof, or who testified in a proceeding or action involving the sexual harassment, is unlawful and will be grounds for disciplinary action, up to and including termination

October 16, 2018

Complaint Form
Reporting Sexual Harassment
In the Town of Brookhaven

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Town Attorney or her designee. Once you submit this form, your employer must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, your employer is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit ny.gov/combating-sexual-harassment

COMPLAINANT INFORMATION:

Name: _____

Home Address: _____ Work Address: _____

Home/Cell Phone: () _____ Work Phone: () _____

Job Title: _____ Email: _____

Select Preferred Communication Method: Phone _____ Email _____

SUPERVISORY INFORMATION:

Immediate Supervisor's Name: _____

Title: _____

Work Address: _____ Work Phone: () _____

COMPLAINT INFORMATION:

1. Your complaint of Sexual Harassment is made against:

Name: _____ Title: _____
Work Address: _____ Work Phone: () _____

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper (if necessary) and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred: _____
Is the sexual harassment continuing? Yes _____ No _____

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint.

The last two questions are optional, but may help facilitate the investigation.

5. Have you previously complained or provided information (verbal or written) about sexual harassment at the Town of Brookhaven? If yes, when and to whom did you complain or provide information? Yes _____ No _____

Employees that file complaints with their employer might have the ability to get help or file claims with other entities including federal, state or local government agencies or in certain courts.

6. Have you filed a claim regarding this complaint with a federal, state or local government agency?
Yes _____ No _____

Have you instituted a legal suit or court action regarding this complaint?
Yes _____ No _____

Have you hired an attorney with respect to this complaint?
Yes _____ No _____

I request that the Town of Brookhaven investigate this complaint of sexual harassment in a timely and confidential manner as outlined below, and advise me of the results of the investigation.

Signature: _____ Date: _____

§ 201-g. Prevention of sexual harassment

McKinney's Labor Law § 201-g • McKinney's Consolidated Laws of New York Annotated • Labor Law • Effective: October 9, 2018 (Approx....

McKinney's Consolidated Laws of New York Annotated
Labor Law (Refs & Annos)
Chapter 31. Of the Consolidated Laws (Refs & Annos)
Article 7. General Provisions

Proposed Legislation

Effective: October 9, 2018

McKinney's Labor Law § 201-g

§ 201-g. Prevention of sexual harassment

Currentness

<[Eff. Oct. 9, 2018.]>

1. The department shall consult with the division of human rights to create and publish a model sexual harassment prevention guidance document and sexual harassment prevention policy that employers may utilize in their adoption of a sexual harassment prevention policy required by this section.

a. Such model sexual harassment prevention policy shall: (i) prohibit sexual harassment consistent with guidance issued by the department in consultation with the division of human rights and provide examples of prohibited conduct that would constitute unlawful sexual harassment; (ii) include but not be limited to information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment and a statement that there may be applicable local laws; (iii) include a standard complaint form; (iv) include a procedure for the timely and confidential investigation of complaints and ensure due process for all parties; (v) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially; (vi) clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and (vii) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any proceeding under the law is unlawful.

b. Every employer shall adopt the model sexual harassment prevention policy promulgated pursuant to this subdivision or establish a sexual harassment prevention policy to prevent sexual harassment that equals or exceeds the minimum standards provided by such model sexual harassment prevention policy. Such sexual harassment prevention policy shall be provided to all employees in writing. Such model sexual harassment prevention policy shall be publicly available and posted on the websites of both the department and the division of human rights.

2. The department shall consult with the division of human rights and produce a model sexual harassment prevention training program to prevent sexual harassment in the workplace.

a. Such model sexual harassment prevention training program shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the department in consultation with the division of human rights; (ii) examples

of conduct that would constitute unlawful sexual harassment; (iii) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment; and (iv) Information concerning employees' rights of redress and all available forums for adjudicating complaints.

b. The department shall include information in such model sexual harassment prevention training program addressing conduct by supervisors and any additional responsibilities for such supervisors.

c. Every employer shall utilize the model sexual harassment prevention training program pursuant to this subdivision or establish a training program for employees to prevent sexual harassment that equals or exceeds the minimum standards provided by such model training. Such sexual harassment prevention training shall be provided to all employees on an annual basis.

3. The commissioner may promulgate regulations as he or she deems necessary for the purposes of carrying out the provisions of this section.

Credits

(Added L.2018, c. 57, pt. KK, subpt. E, § 1, eff. Oct. 9, 2018.)

McKinney's Labor Law § 201-g, NY LABOR § 201-g
Current through L.2018, chapters 1 to 271.

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

ADOPTED
BY THE BROOKHAVEN TOWN BOARD

RESOLUTION NO. 2018-0180
MEETING: MARCH 1, 2018

AMENDING RESOLUTION 834-08
AUTHORIZING A FOUR HOUR
ALLOWANCE FOR TOWN OF
BROOKHAVEN EMPLOYEES TO
RECEIVE CANCER SCREENING IN
ACCORDANCE WITH CIVIL SERVICE
LAW SECTION 159-B

WHEREAS, 2008 New York State legislation mandates that municipalities make available to their employees four hours of excused leave each year for the purpose of screening for breast cancer or prostate cancer; and

WHEREAS, Civil Service Law §159-b was amended on December 18, 2017, expanding the applicability of this Law to include all cancer screenings; and

WHEREAS, the Town of Brookhaven recognizes that the health and well being of its employees is a paramount concern to the running of good and efficient government; and

WHEREAS, the Town of Brookhaven recognizes that such a policy will encourage its employees to have cancer screenings done which could lead to the early detection and successful treatment of cancer.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Brookhaven that Resolution No. 834-08 dated September 23, 2008 is hereby amended to comply with Civil Service Law §159-b; and it is further

RESOLVED, that the Town hereby expands its prior policy allowing Town employees four hours off with pay, annually, for the purpose of screening for cancer, for which documentation must be provided as set forth in the attached form.

TOWN OF BROOKHAVEN

CANCER SCREENING LEAVE FORM

New York State Civil Service Law entitles all Town employees to take up to four hours of paid leave annually, without charge to leave credits, for cancer screening. The screening includes physical exams specifically for the detection of cancer. Travel time is included in the four hour cap. Absence beyond the four hours must be charged to leave credits. The leave is not cumulative and expires at the close of business of the last day of each calendar year.

To properly document this absence, please complete the information below, including a signature from the provider's office, and return this form to **your Department Head**.

Failure to submit this form will result in either the docking of pay for the time or a deduction from the employee's leave time.

Employee Section:

I, _____ verify that on _____ at
(Print Name) (Date)

_____, I underwent a cancer-screening exam.
(Location)

Employee Signature

(Date)

Medical Provider Section:

_____ was seen for _____
(Type of Screening)

screening with Dr. _____ or at the _____ office,

on _____
(Date)

Provider's Signature

Date and Time

Location of Provider _____