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Honorable Tony Gonçalves, Supervisor and
Members of the Town Board
Town of Lewisboro
Town House
11 Main Street
South Salem, New York 10590

May 22, 2023

Dear Supervisor Gonçalves and Members of the Town Board:

I am writing because I believe the recent proposal to revise the Board of Ethics section of the Town Code is a proposed 'solution looking for a problem.' While the Board of Ethics may be inactive it serves as a necessary guard rail or insurance policy that will spring into action when necessary, i.e. when a complaint is filed. To better serve residents, please update lewisborogov.com with instructions on how to submit a complaint.

As you know, the Town Code states that the Board of Ethics is to "promulgate its own rules and regulations." (§18-7C) Are the current members of the Board of Ethics proponents of the draft Code revisions? Were they consulted on these proposed changes? Instead of rewriting the Code why hasn't the Town Board put its energies toward filling the current vacancy on this Board?


Secondly, I am against eliminating the requirement that the Board of Ethics "shall include at least one member who is an elected or appointed Town employee of the Town of Lewisboro." This requirement, while not seen in many of our neighboring municipalities today, makes me wonder about the original intent of this mandate and if it is akin to a jury of one's peers.

Municipality	Members	Town official or employee
Bedford	5	At least 1
Lewisboro	3	At least 1
North Salem	3	Not required
Pound Ridge	5	Not required
Somers	5	Not required
Yorktown	5	Not required

Who better to understand the inner workings of the various departments in Town than a town employee? Besides being well-versed in the Town Code, the employees of Lewisboro follow the Sailor's Creed, that is we are "committed to excellence and the fair treatment of all."

In closing, if the Town Board retains the current language in the Town Code and does not amend the Board of Ethics chapter I would like to be considered as the employee member of the Board of Ethics.

Thank you for your time,


Ciorsdan Conran

Enclosures: Chapter 18, Lewisboro Town Code (1970) and proposed revision (2023)

Chapter 18. Ethics, Code of

[HISTORY: Adopted by the Town Board of the Town of Lewisboro 6-9-1970 by L.L. No. 1-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 50.

§ 18-1. Legislative intent.

The Town Board of the Town of Lewisboro recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees, which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this Town as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the Town's officers and employees as provided for herein.

§ 18-2. Standards to be in addition to other provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of Town officers to the extent at the same are more severe in their application than this chapter.

§ 18-3. Definitions.

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

TOWN

Any board, commission, district, council or other agency, department or unit or the government of the Town of Lewisboro.

TOWN EMPLOYEE

Any officer or employee of the Town of Lewisboro, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

§ 18-4. Conflicts of interest.

No Town employee shall have any interest, financial or otherwise, direct or indirect or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 18-5. General standards.

- A. No Town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- B. No Town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- C. No Town employee shall engage in any transaction as representative or agent of the Town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- D. A Town employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.
- E. Each Town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- F. Each Town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- G. No Town employee employed on a full-time basis nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Town in which such employee serves or is employed.

§ 18-6. Penalties for offenses.

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

§ 18-7. Board of Ethics.

- A. There is hereby established a Board of Ethics consisting of at least three members, to be appointed by the Town Board, all of whom reside in the Town of Lewisboro, and who shall serve without compensation and at the pleasure of the Town Board of the Town of Lewisboro. A majority of such members shall be persons other than Town employees, but shall include at least one member who is an elected or appointed Town employee of the Town of Lewisboro.
- B. The Board of Ethics established hereunder shall render advisory opinions to Town employees on written request and upon request of the Town Board make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the Town employee be disclosed, except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.
- C. Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

§ 18-8. Copies to be distributed.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every Town employee of this Town. Failure to distribute any such copy or failure of any Town employee to receive such copy shall have no effect on the duty of compliance with this code, nor the enforcement of provisions thereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the Town. Failure to so post this chapter shall have no effect on the duty of compliance herewith, nor the enforcement provisions hereof.

§ 18-9. Filing with state.

Within 30 days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 18-10. Appropriations for Board.

The Town Board may appropriate moneys from the general Town funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of Town moneys except within the appropriations provided herein.

PROPOSED LOCAL LAW # OF THE YEAR 2023

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF LEWISBORO, COUNTY OF WESTCHESTER, STATE OF NEW YORK AS FOLLOWS:

SECTION 1 : AUTHORITY

This chapter is adopted pursuant to the authority, of Article 2, §10 of the New York State Municipal Home Rule Law.

SECTION 2 : AMENDMENT OF CHAPTER 18

Chapter 18 of the Town of Lewisboro Town Code entitled "Ethics" specifically subsection 18-7 thereof is hereby amended to read as follows:

18-7 BOARD OF ETHICS.

- A. There is hereby established a Board of Ethics consisting of at least three members, to be appointed by the Town Board, all of whom reside in the Town of Lewisboro, and who shall serve without compensation and at the pleasure of the Town Board.
- B. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the municipal officers of the Town of Lewisboro, pursuant to a written request, with respect to Article 18 of the General Municipal Law.
- C. Any advisory opinion regarding this Code of Ethics shall be provided to the person requesting same. Opinions shall be forwarded by the Board of Ethics to the Town Supervisor and Town Councilpersons of the Town of Lewisboro following the rendering of such opinion. The Town Board shall arrange to circulate said opinions to all employees for their information and have said opinions posted on the Town Bulletin Board.
- D. In addition to the other powers and duties granted to the Board of Ethics, the Board shall have the authority to receive from any person a written complaint regarding the compliance of any Town officer or employee with the provisions of this article.
- E. The Town Board of the Town of Lewisboro hereby empowers the Town of Lewisboro Board of Ethics with the authority to take testimony under oath with respect to any complaint received under this chapter.
- F. The Board of Ethics shall maintain appropriate records of its opinions and proceedings in compliance with state statute. The procedure for receipt and investigation of complaints shall be as follows:
 - (1) The written complaint must be signed, must include the individual complainant's address, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).
 - (2) The written complaint shall be filed with the Town Clerk. Upon receipt of said complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the

officer or employee who is the subject of the complaint and the Town legal counsel.

- (3) The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine in writing whether there is probable cause for the complaint. In the event that the Board of Ethics should find no probable cause for the complaint, the complaint shall be dismissed by the Board of Ethics sua sponte. The Board of Ethics shall then notify the complainant, the officer or the employee who is the subject of the complaint and the Town Board of the disposition of the complaint.
- (4) In the event that the Board of Ethics should find probable cause for the complaint, the Board of Ethics shall forward to the Town Board a copy of its probable cause decision together with any information and documentation acquired by the Board of Ethics regarding the complaint.
- (5) The Board of Ethics shall then conduct an investigation on said complaint.
- (6) The officer or employee who is the subject of the complaint shall have the right to be represented by counsel at any appearance before the Board of Ethics.
- (7) After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:
 - (a) The members of the Board of Ethics may obtain legal advice from the Town Counsel or special counsel as the case may be; and
 - (b) The members of the Board of Ethics may discuss the complaint among themselves;
 - (c) If any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.
- (8) At the conclusion of its investigation and hearing on said complaint, the Board of Ethics shall then furnish the complainant, the officer or the employee who is subject of the complaint and the Town Board of the disposition of the complaint and its recommendation for action made to the Town Board. The Town Board shall take official action by public vote on such recommendation received from the Board of Ethics in regard to a complaint within 30 days of receipt and shall, immediately following the taking of such action, make it, including the recommendation of the Board of Ethics, public.

G. All actions, decisions and recommendations of the Board of Ethics shall be by majority vote of the entire membership.

- H. The Town of Lewisboro Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18 of the General Municipal Law of the State of New York.
- I. To the extent allowed by law, the Town of Lewisboro Board of Ethics shall be exempt from the Freedom of Information Law and from the Open Meetings Law.
- J. Except to the extent such records must be disclosed under the Freedom of Information Law and except as provided in § 13-7F(11), the complaint, records and other proceedings related thereto shall remain confidential.

SECTION 3 – HOME RULE

Nothing in this Local Law is intended, or shall be construed to limit the home rule authority of the Town under State Law or to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 4 – SEVERABILITY

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

SECTION 5– EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.