

MINUTES OF A PUBLIC HEARING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MAMARONECK HELD ON MONDAY, JANUARY 12, 2009 AT 7:30 P.M. IN THE COURTROOM AT
VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT:	Mayor	Kathleen Savolt
	Trustees	Thomas A. Murphy Toni Pergola Ryan John M. Hofstetter Randi Robinowitz
	Village Manager	Leonard M. Verrastro
	Village Attorney	Janet M. Insardi
	Police Department	Edward Flynn
	Clerk-Treasurer	Agostino A. Fusco
ABSENT:		None

NOTICE OF PUBLIC HEARING

On motion of Trustee Hofstetter, seconded by Trustee Murphy:

RESOLVED that the Public Hearing on Proposed Local Law 13-2008 be and is hereby opened.

Ayes:	Robinowitz, Hofstetter, Ryan, Murphy, Savolt
Nays:	None

Mayor Savolt stated that this is the third public hearing on this proposed local law as there had been changes to the first and second drafts.

Village Attorney, Janet Insardi, gave a summary of the issues addressed that were raised at the last hearing, which included a whistle blower provision and good faith provision. Another change made was in respect to the subsequent employment provision, changing it to employees who are subject to the annual disclosure statement provision, that is, employees who are in more decision-making positions. Ms. Insardi stated that this draft has been posted on the Village's website for a couple of weeks.

Trustee Hofstetter thanked Ms. Insardi and Mayor Savolt for all of the work done on this law. Trustee Robinowitz stated that this is something that will outlive the current members time on Board. Trustee Ryan also thanked Ms. Insardi, Trustee Hofstetter and the Mayor and feels that the Board listened to the community and took their suggestions in making this the best Ethics Code that will be seen in any municipality. Trustee Murphy asked residents to compare this Code with the previous Code on the books. He agrees with Trustee Robinowitz, that this will serve the community long after members currently on this Board are no longer on the Board.

Mayor Savolt summarized the major differences between this and the previous Ethics Code.

Stating that a most significant change is that any person can seek resolution of a violation of this Code and this is a great departure from the past.

On motion of Trustee Ryan, seconded by Trustee Robinowitz:

RESOLVED that the Public Hearing on Proposed Local Law 13-2008 be and is hereby closed.

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt

Nays: None

On motion by Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED that Proposed Local Law 13, 2008 is hereby enacted as Local Law 1-2009 and shall read as follows.

LOCAL LAW 1-2009

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

Section 1. Adoption of a new Chapter 21, entitled "Ethics, Code of", to read as follows:

§ 21-1. Declaration of Policy.

The Board of the Village of Mamaroneck recognizes that it must establish high standards of ethical conduct for officers, board members and employees of the Village so as to promote public confidence in the integrity of local government. It is the purpose of this Chapter to afford officers, board members and employees of the Village clear guidance on ethical standards, to require public disclosure of interests that may influence or appear to influence the actions of Village officers, board members and employees and to provide for the fair and effective administration of this Chapter, including the protection of those who make good faith disclosure of suspected unethical or wrongful conduct.

§ 21-2. Applicability of Other Laws.

This Chapter is enacted pursuant to Section 806 of the General Municipal Law of the State of New York and Section 10 of the Municipal Home Rule Law. It is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law or any other general or special law or conduct relating to conflicts of interest, ethical conduct and interest of public officers, employees and board members in contracts. To the extent this Chapter is inconsistent with the provisions of Section 808 of the General Municipal Law, the more restrictive provision applies.

§ 21-3. Definitions

As used in this Chapter, the following terms shall have the meaning indicated:

BUSINESS DEALING - Having or providing any contract, service, or work with the Village; buying, selling, renting, leasing or otherwise acquiring from or dispensing to the Village any goods, services or property; or applying for, petitioning, requesting or obtaining any approval, grant, loan, license, permit or other privilege from the Village

DISCRETIONARY ACTION - Any act involving the exercise of judgment or discretion by a Village officer or employee, either individually or as a member of any board, body, department or committee, and includes but is not limited to negotiation, approval, advice, recommendation, authorization or audit.

IMMEDIATE FAMILY MEMBER - A spouse, minor child, stepchildren, mother, father, brother, sisters, grandparents, grandchildren, in-laws or other dependents or relatives residing in the household of a Village officer or employee.

INTEREST – Any participation, connection or involvement which may result in a direct or indirect pecuniary or material benefit accruing to an officer or employee as a result of a business or professional transaction with the Village. For the purpose of this Chapter, an officer or employee shall be deemed to have a direct interest in the affairs of:

- (1) His/her spouse, minor child, stepchildren, mother, father, brothers, sisters, grandparents, grandchildren, in-laws and other dependents or relatives.
- (2) A business concern, partnership or association of which such officer or employee is a member, partner, owner, director or employee.
- (1) A corporation of which such officer or employee is an officer, director or employee.
- (4) A corporation, in which 5% or more of the corporation's stock is owned or controlled, directly or indirectly, by such officer or employee.

OFFICER, BOARD MEMBER OR EMPLOYEE – An officer or employee of the Village of Mamaroneck, whether paid or unpaid, including all decision-making officers, employees, and members of any decision-making board, body, council, commission, agency, department or committee. For the purpose of this Chapter, no volunteer firefighter, auxiliary police officer or civil defense volunteer shall be deemed an officer or employee, except a Fire Chief or Assistant Fire Chief.

RELATIVES – Any spouse, child, grandchild, parent, grandparent, sibling, in-law, aunt, uncle, first cousin, niece, nephew, stepparent, stepchild, half-brother or half-sister.

VILLAGE – The Village of Mamaroneck or any of its boards, commissions, committees or agencies, whether operated or funded solely by the Village of Mamaroneck or jointly with one or more other municipalities.

VILLAGE CONSULTANT – Any individual, group or firm which renders services on behalf of the Village to any Village officer, Board of Trustees, Planning Board, Board of Appeals or any other Village agency or commission.

VILLAGE OFFICER – Any elected official of the Village of Mamaroneck.

§ 21-4. Standards of Conduct.

A. General prohibition. A Village officer, board member or employee shall not use his or her official position or office, or take or fail to take any discretionary action, in a manner which he or she knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

- (1) The Village officer or employee;
- (2) His or her outside employer or business;
- (3) A member of his or her household;
- (4) A customer or client;
- (5) A relative; or
- (6) Any firm, corporation, association, partnership or other organization in which the Village officer, board member or employee, or a relative, serves as an officer or director, whether compensated or not compensated or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock or has authority to decide upon grants or other monetary benefits.

B. Specific Village officers and employees.

- (1) Responsibilities.
 - (a) Professionally licensed. All Village officers, board members employees and consultants with professional licenses are prohibited from knowingly exercising any discretion in any

matter of Village interest which shall involve any person, firm or corporation which is a client of his or hers or a client of his or her firm.

(b) Authorized to conduct inspections and issue permits. All Village officers, board members and employees with the authority to conduct inspections or issue permit approvals shall not engage in a business or have a financial interest in any firm engaged in a business with the Village where said business conducts, as a regular and significant part of its business, matters requiring such inspections or such permits. In addition, any such Village officer and/or employee(s) shall recuse himself/herself from conducting any such inspection or issuing any necessary permits that directly pertain to his or her outside employer or business.

(2) The foregoing Village officers, board members and employees are listed due to the unique nature of their offices and positions which, in turn, raises ethical conflicts unique to those offices and positions. This list is not to be deemed all-inclusive. Every Village officer and employee shall endeavor to pursue a course of conduct consistent with the spirit of this Chapter as well as the actual provisions and strive to act so as not to raise reasonable suspicion among the public that he or she is likely to be engaged in activities that are in violation of his or her trust.

C. Recusal.

(1) A Village officer or employee, or Board or committee member shall promptly recuse himself/herself from acting on a matter before the Village when acting on the matter, or failing to act on the matter, may benefit the persons listed in § 21-4(A), financially or otherwise, or give the reasonable appearance of a conflict of interest or impropriety.

(2) Whenever a Village officer, employee, or Board or committee member is required to recuse himself/herself, he/she must do so on the record and/or in writing and refrain from any further participation in the matter.

D. Gifts and Solicitations.

(1) No Village Officer, board member, employee or consultant shall directly or indirectly solicit any gifts, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, or accept any gifts from any person, partnership, corporation or other entity which has a business relationship with the Village of Mamaroneck. However a Village officer, board member or consultant may accept or agree to accept a gift or gifts, which are customary on family, social, holiday or civic occasions, provided that they do not exceed a total aggregate value from a single source of \$50 in any one calendar year and were not received under circumstances in which it reasonably might be inferred that such gift or gifts were intended to influence the Village officer or employee in the performance of his or her duties or were rewards or tips for any official acts by the employee.

(2) The term "gift" does not include any of the following, which although they may benefit individual officers, board members or employees, are deemed to be primarily public benefits rather than personal benefits:

(a) Complimentary attendance, food and beverage offered by the sponsor of an event that is widely attended or was in good faith intended to be widely attended, when attendance at the event is related to the attendee's duties and responsibilities as a public official or allows the public official to perform a ceremonial function appropriate to his or her position.

(b) Complimentary attendance, including food and beverage, at *bonafide* charitable or political events, and food and beverage of a nominal value offered other than as part of a meal.

(c) Awards publicly presented in recognition of public service, acts of heroism or for solving crimes;

(d) Plaques or other commemorative tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities;

(e) Anything of value, regardless of the value, when the thing is offered to the Village of Mamaroneck, is accepted on behalf of the Village of Mamaroneck, and is to remain the property of the Village of Mamaroneck;

(f) Promotional items having no substantial resale value, such as pens, mugs, calendars, hats and t-shirts, which bear an organizations name, logo or message in a manner which promotes the organization's cause.

(g) Political contributions that are subject to disclosure.

(3) No Village officer, board member or employee shall, directly or indirectly, solicit any gift, contribution, or donation from any person on Village property.

(4) No Village Officer, board member, employee or consultant shall, directly or indirectly, solicit any gift, contribution or donation from any subordinate employee or board member.

E. Nepotism.

(1) Policy. Employees' relatives will not be employed by the Village on a full-time basis under any of the following circumstances:

(a) Where one of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other;

(b) Where one party would be responsible for auditing the work of the other;

(c) Where both parties would report to the same immediate supervisor. Every other option, including reassignment within the Village workforce, would be considered in good faith before layoff;

(d) Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the Village; or

(e) Where one of the parties is an elected official, except when the family member is currently employed by the Village prior to the elected official obtaining office or if the family member is currently employed by the Village becomes a family member of an official.

(2) Any employee currently employed prior to the adoption of this Chapter shall be exempt.

F. Disclosure of Confidential Information.

(1) No Village officer, board member, Village employee or Village consultant shall disclose information acquired by him or her in the course of official duties or use such information to further his/her personal interests or the private interests of others.

(2) No Village officer, board member, Village employee or Village consultant shall accept employment or engage in a business or professional activity which will require him or her to disclose confidential information gained by reason of his or her official position or authority.

G. Misuse of authority. No Village officer, board member, Village employee or Village consultant shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself/herself or others.

H. Misuse of privilege. No Village officer, board member, Village employee or Village consultant shall by his or her conduct give reasonable basis for the impression that another can improperly influence him or her or unduly enjoy his or her favor in the performance of his official duties or that he/she is affected by kinship, rank, position or influence of any party or person.

I. Private employment. No Village officer, board member, employee or consultant shall engage in, receive compensation for, or enter into any agreement for employment, express or implied, when such employment or service create or may reasonably create a conflict with or may reasonably impair the proper impartial discharge of duties.

J. Investments.

(1) No Village officer, board member, Village employee or Village consultant of the Village of Mamaroneck shall invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties.

- (2) No Village officer, board member, Village employee or Village consultant shall engage in any enterprises which he has reason to believe may be directly involved in decisions to be made or advice to be given by him or her or which will otherwise create substantial conflict between his or her duty and the public interest and his or her private interest.

K. Future employment.

- (1) No Village officers, board members or employees obligated under this Chapter to file financial disclosure forms will accept present or future employment, within two years following separation from his or her service, with any person or entity with any business dealings with the Village of Mamaroneck unless such potential employment is disclosed to the Board of Trustees before being accepted by the officer or employee and is approved prospectively by such board.
- (2) No Village officer, board member, employee or Village consultant shall, within two years after the separation from his or her service, appear as part of his/her employment before any board, agency or commission of the Village of Mamaroneck or conduct any official Village business, transactions or professional activity with any Village officer or board member, Village employee or Village consultant where special advantages by virtue of prior contact and relationship with the Village may be realized. If the employee or board member personally participated in the matter during the period of his or her employment, service, they may not appear before any Village board or commission for a period of three years following termination.
- (3) No elected Village officer after the conclusion of service with the Village, shall appear before any board, agency or commission of the Village of Mamaroneck in relation to any case, proceeding or application in which he or she was directly concerned and personally participated or which was under his or her active consideration during the period of his or her service.

L. Discrimination. No Village officer, board member, employee or Village consultant or any service or other organization chartered by or directly or indirectly sponsored or supported by the Village shall:

- (1) Discriminate or cause involuntary segregation, directly or indirectly, based upon creed, color, national origin, sex, gender orientation or disability or allow the preceding to be factors affecting the recruitment, selection, placement, assignment, compensation or promotion of any Village officer, Village Board member, Planning Board member, Board of Appeals member, Village employee or member of such service or other organization.
- (2) Permit, directly or indirectly, the use of any Village property, equipment or services by any person or persons, organizations, corporations or any other group which directly or indirectly discriminates as set forth in Subsection L (1) above.
- (3) Allow the Village knowingly to have any financial or business dealings with any organization which discriminates as set forth in Subsection L (1) above.

M. Interest in Village contracts. No Village officer, board member, employee or consultant shall receive compensation or enter into any agreement, expressed or implied, in connection with or have interest in, directly or indirectly, any contract or agreement with the Village unless such compensation or interest is first fully disclosed to and approved by the Board of Trustees at a regular public meeting. No Village officer or employee may take part in any contracting decision: (i) relating to the employee; (ii) relating to a relative; or (iii) relating to any entity in which the employee or a relative is an officer, director or partner, or in which a relative owns or controls 5% or more of the stock of such entity. If a contracting matter arises relating to the employee or a relative, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

N. Disclosure of interest in legislation and official action. To the extent that she/he knows thereof, any Village officer, board member and/or employee with respect to matters in which she/he participates or in which her/his board is involved in the decision-making process, shall specifically and fully disclose on the official record of the Board of Trustees at a regular public meeting thereof the nature and extent of any direct or indirect interest in legislation or official action pending before the Village. Such public disclosure by the officer, employee or board member shall include disclosure of any political contributions made by any applicant, his/her consultants or legal representatives or their affiliates for the period commencing 12 months prior to the filing of the application and ending 12 months after a final decision has been made. However, no disclosure shall be required at any time under the subsection of any political contributions made by persons who are not applicants or their consultants, legal representatives or affiliates.

- O. Inducement of others. Any officer or employee of the Village of Mamaroneck shall not induce, threaten or coerce or aid another officer or employee of the Village to violate any of the provisions of this Code of Ethics.
- P. Village employees. No officer or employee shall direct or cause any subordinate officer or employee to do or perform any service or work outside of the scope of his or her public work responsibilities or employment. Subordinate officers and employees may voluntarily perform such service or work, with or without compensation, outside of the hours during which they are assigned to perform duties for the Village, but they shall not wear any Village-issued uniform while engaged in any such activity.
- Q. Village property. No officer or employee shall use or request or permit the use of Village-owned property, including, but not limited to, vehicles, equipment, uniforms, materials or supplies, for personal convenience, use or profit, except when such goods or services are available to the public generally or are used by the officer or employee in compliance with Village policy for such use or where the use of Village-owned property for personal use is part of the officer's or employee's compensation. Village issued cellphones may be used for incidental and necessary personal calls that are of limited amount and duration and which do not conflict with the proper exercise of the duties of the officer or employee.
- R. Provisions A through Q. Provisions A through Q hereinabove are a comprehensive, but not necessarily exclusive, list of provisions regarding ethical behavior of Village employees, board members and officers. Village employees, board members and officers should seek the assistance of the Board of Ethics when in doubt regarding any particular behavior or issue.

§ 21-5. Disclosure of interest.

- A. Distribution of Code of Ethics. Pursuant to New York General Municipal Law § 806, the Village Manager shall cause a copy of this Code of Ethics to be distributed to each Village officer, board member, employee, and consultant to the Village upon the adoption of this Chapter and at the time of commencement of each person's service in each new capacity. Each official, employee, and consultant shall acknowledge, in writing, that he or she has received, read, and understood this Code of Ethics. Failure to distribute or receive such copy shall have no effect on the duty of compliance with such Code or on its enforcement.
- B. Initial and Annual disclosure. Every designated officer, board member and employee is required to file an initial disclosure form with the board of ethics. The first disclosure pursuant to this Chapter shall be due 90 days after the effective date of this legislation. In every calendar year thereafter, annual disclosure forms for designated officers, board members, employees and new employees shall be due for filing by February 15. In the event a change occurs with respect to the information, an amended statement reflecting any change shall be filed within 30 days of such change. Failure to file the required disclosure statement shall be deemed a violation of this Chapter. A copy of said form is annexed to this Chapter as Appendix A. All forms shall be on file in the office of the Village Clerk-Treasurer.
- C. Transactional disclosure. Any Village officer, board member, employee, or consultant who has a direct or indirect private interest in any transaction under consideration by a board, court, commission, district, department, committee or agency of the Village or in any property which may be affected by such transaction, or whose relative has such a private interest, shall publicly disclose the nature and extent of that private interest on the record of the board, court, commission, district, department, committee, or agency before which such transaction is pending and shall file a copy of such disclosure with the Village Clerk-Treasurer. The board of ethics shall review such disclosures in a timely manner.
- D. Disclosure upon application. Any applicant for employment or a change of zoning, variance, special permit, site plan approval, subdivision, or other permission pursuant to the zoning and planning regulations of the Village shall disclose as part of the application the name, nature and extent of the interest of any Village employee, officer, board member or consultant in the application or in the applicant including whether the Village officer, board member, employee or consultant is required to take any discretionary act on the application.

§21-6. Designation of officers and employees required to file annual disclosure statements.

Within ninety days after the effective date of this Chapter, and during the month of January each year thereafter, the Board of Trustees, shall:

Cause to be filed with the Village of Mamaroneck's ethics board a list of the names and offices or positions of all officers board members and employees of the Village of Mamaroneck required to file annual disclosure statements pursuant to section 21-5; and

Notify all such officers, board members and employees of their obligation to file an annual disclosure statement.

§ 21-7. Ethics board; establishment; qualification of members; appointment of members; terms of office.

- A. The Board of Ethics in existence at the time of the enactment of this Chapter is dissolved.
- B. There is hereby established a Village of Mamaroneck ethics board consisting of five members to be appointed by the Board of Trustees.
- C. Members of the ethics board shall be chosen for their independence, integrity, civic commitment, and high ethical standards.
- D. No ethics board member shall hold office in a political party. No ethics board member shall be employed or act as a lobbyist before the Village of Mamaroneck, the Town of Rye or the Town of Mamaroneck. No ethics board member shall enter into any contract with the Village of Mamaroneck, except a contract for the receipt of Village of Mamaroneck services or benefits, or use of the Village of Mamaroneck facilities, on the same terms and conditions as are generally available to residents or a class of residents of the Village of Mamaroneck. No ethics board members shall hold elective office in the Village of Mamaroneck or be an appointed officer or employee of the Village of Mamaroneck. An ethics board member may make campaign contributions but may not participate in any Village election campaign. No more than two members of the ethics board shall be registered in the same political party.
- E. The members of the board of ethics shall be appointed within sixty days after the effective date of this Chapter. Appointments shall be made initially for terms of one, two (for two members), and three (for two members) years, with every appointment thereafter for a period of three years.
- F. An ethics board member shall serve until his or her successor has been appointed. Consecutive service on the ethics board shall not exceed two full terms.
- G. Ethics board members shall not receive compensation for their service but shall be reimbursed reasonable expenses incurred in the performance of their official duties.

§21-8. Ethics board; vacancies; removal of members

- A. When a vacancy occurs in the membership of the ethics board, the vacancy shall, within sixty days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the ethics board shall meet the qualifications set forth in this Chapter.
- B. An ethics board member may be removed from office in the same manner which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in section 21-6 of this Chapter, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this Chapter.

§21-9. Ethics board; meetings.

At its first meeting each year, the ethics board shall elect a chair for that year from among its members. A majority of the board shall be required for the board to take any action. The chair or a majority of the board may call a meeting of the board, and the board shall meet at least quarterly.

§21-10. Ethics board, jurisdiction, powers, and duties.

- B. The ethics board may act only with respect to officers, board members and employees of the Village of Mamaroneck.
- C. The termination of a Village of Mamaroneck officer's, board member's or employee's term of office, service or employment with the Village of Mamaroneck shall not affect the jurisdiction of the ethics board with respect to the requirements imposed by this Chapter on the former officer or employee for his or her actions or interests while a Village officer or employee.
- D. The ethics board shall have the following powers and duties:
 - (1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this Chapter;
 - (2) To require the assistance of the Village Attorney and the Village Clerk-Treasurer in the performance of the ethics board's duties, provided, however, that any communications between the ethics board and such Village Attorney or Village Clerk-Treasurer shall be confidential and not disclosed to anyone other than the ethics board or its designees, except as otherwise required by state or federal law or by this Chapter;
 - (3) To review, index, and maintain on file, and make available for public inspection and copying, lists of officers, board members and employees, transactional disclosure statements, applicant disclosure statements, and annual disclosure statements filed with the board pursuant to sections 21-5 and 21-11;
 - (4) To review, index, maintain on file, and dispose of sworn complaints and to make modifications and conduct investigations;
 - (5) To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings;
 - (5) To grant waivers pursuant to section 21-15 of this Chapter;
 - (6) To render, index, and maintain on file advisory opinions of this Chapter;
 - (7) To provide training and education to municipal officers, board members and employees;
 - (8) To prepare an annual report and recommend changes to this Chapter;
 - (9) To provide for public inspection and copying of certain records.

§21-11. Maintenance and public inspection of disclosure statements.

- A. The Village of Mamaroneck Clerk-Treasurer shall transmit promptly to the ethics board each transactional and/or applicant disclosure statement filed with the Clerk-Treasurer pursuant to sections 21-5.
- B. The ethics board shall index, maintain on file for six years, and make available for public inspection and copying all transactional, applicant, and annual disclosure statements filed with the board.

§21-12. Review of lists and disclosure statements.

- A. The ethics board shall review:
 - (1) The lists of officers, board members and employees prepared pursuant to section 21-10 of this Chapter to determine whether the lists are complete and accurate.
 - (2) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this Chapter.

(3) All transactional disclosure statements.

(4) All applicant disclosure statements.

B. If the board determines that an annual disclosure statement, a transactional disclosure statement, or an applicant disclosure statement is deficient or reveals a possible or potential violation of this Chapter, the board shall notify the person in writing of the deficiency or possible or potential violation and of the penalties for failure to comply with this Chapter.

§21-13. Investigations.

A. Upon receipt of a sworn complaint by any person alleging a violation of this Chapter, or upon determining on its own initiative that any such violation may exist, the ethics board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this Chapter. All agencies of the Village and all public officers, board members, employees and agency members shall furnish to the Board of Ethics such data, information and statements as may in the opinion of the Board be necessary or appropriate for the proper exercise of its functions, powers and duties. The Board of Ethics may also request from third parties such data, information and statements as may in the opinion of the Board be necessary or appropriate for the proper exercise of its functions, powers and duties. 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. The ethics board shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the board.

C. Any person filing a sworn complaint with the ethics board shall be notified in writing of the disposition of the complaint, to the extent permitted by law.

D. All documents and hearings relating to the investigation and hearing of any alleged violation of this Chapter shall be confidential and not available for public inspection or open to the public, except as otherwise required by state or federal law or by this Chapter. All dispositions, including negotiated dispositions, in which the ethics board finds a violation of this Chapter, shall be available for public inspection and copying.

E. Nothing in this section shall be construed to permit the ethics board to conduct an investigation of itself or any of its members or staff. If the ethics board receives a complaint alleging that the ethics board or any of its members or staff has violated any provision of this Chapter, or of any other law, the board shall promptly transmit a copy of the complaint to the Village Manager.

§21-14. Hearings; assessment of penalties.

A. Disciplinary action. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the ethics board may recommend appropriate disciplinary action pursuant to section 21-9 of this Chapter. The recommendation of the ethics board shall be made to the appointing authority or person or body authorized by law to impose such sanctions. The board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the board refers the matter to the authority or person or body authorized by law to impose disciplinary action or unless the board refers the matter to the appropriate prosecutor. If such a referral is made, the board may adjourn the matter pending determination by authority, person, body, or prosecutor.

B. Civil fine. In its discretion and after a hearing providing for due process procedural mechanisms, the ethics board, pursuant to section 21-9 of this Chapter may assess a civil fine, not to exceed fifteen hundred dollars for each violation, upon any Village of Mamaroneck officer, Board member, employee or consultant found by the board to have violated this Chapter. The board shall conduct and complete the hearing with reasonable promptness. The civil fine shall be payable to the Village of Mamaroneck.

C. Damages. The Village of Mamaroneck may initiate an action in the Supreme Court of the State of New York to obtain damages, as provided in section 21-9 of this Chapter.

- D. Civil forfeiture. The Village of Mamaroneck, or the ethics board on behalf of the Village of Mamaroneck, may initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York to obtain civil forfeiture, as provided in section 21-9 of this Chapter.
- E. Debarment. The Village of Mamaroneck, or the ethics board on behalf of the Village of Mamaroneck, may initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York for an order of debarment.
- F. Injunctive relief. The Village of Mamaroneck, or the ethics board on behalf of the Village of Mamaroneck, may initiate an action or special proceeding, as appropriate, in the Supreme Court of the State of New York for injunctive relief to enjoin a violation of this Chapter or to compel compliance with this Chapter.
- G. Prosecutions. The ethics board may refer to the appropriate prosecutor possible criminal violations of this Chapter. Nothing contained in this Chapter shall be construed to restrict the authority of any prosecutor or the attorney general to prosecute any violation of this Chapter or of any other law.
- H. Nothing in this section shall be construed to permit the ethics board to take any action with respect to any alleged violation of this Chapter or of any other law, by the board or by any member or staff member thereof.

§21-15. Waivers.

- A. Upon written application by a Village of Mamaroneck officer or employee and/or if applicable, written approval by his or her department head, the ethics board may grant the applicant, or his or her private employer or business, a waiver of any of the provisions of the code of ethics, except the inducement of violations provisions; section on appearances by the municipal official's private employer or business; sections on transactional, applicant, annual disclosure of this Chapter where the ethics board finds that waiving such provision would not be in conflict with the purposes and interest of the Village of Mamaroneck, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.
- B. Waivers shall be in writing, shall state the grounds upon which they are granted, and shall be available for public inspection and copying. All applications, decisions, and other records and proceedings relating to waivers shall be indexed and maintained on file by the board.

§21-16. Advisory opinions.

- A. Upon the written request of any Village of Mamaroneck officer, board member or employee, or of his or her department head, the ethics board shall render a written advisory opinion with respect to the interpretation or application of this Chapter to the future or continuing conduct or interest of such Village of Mamaroneck officer or employee or his or her outside employer or business.
- B. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the ethics board. The board shall publish such of its advisory opinions as it believes will provide guidance to other Village of Mamaroneck officers, board members or employees, provided, however, that the publicly available copy of such opinions shall contain such deletions as may be necessary to prevent disclosure of the identity of the involved officers, board members and employees.

§21-17. Judicial review.

- A. Any person aggrieved by a decision of the ethics board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules.
- B. Any person who has submitted to the ethics board a written request for an advisory opinion may bring an action or special proceeding, as appropriate, for a determination of the question posed in the request, provided that:

- (a) it shall appear by and as an allegation in the complaint or petition that at least six months have elapsed since the filing of the request and that the ethics board has failed to file any determination in the matter; and
- (b) the action or special proceeding shall be commenced within ten months after the submission of the request for the advisory opinion.

§21-18. Training and education.

- A. The ethics board:
 - (a) Shall make information concerning this Chapter available to the officers, board members and employees of the Village of Mamaroneck, to the public, and to persons interested in doing business with the Village of Mamaroneck;
 - (b) Shall develop educational materials and an educational program on the provisions of this Chapter for the officers, board members and employees of the Village of Mamaroneck, for the public, and for persons interested in doing business with the Village of Mamaroneck.
- B. The Village Manager shall assist the ethics board in the publication, posting, and distribution of ethics educational materials and in the development and presentation of ethics educational programs.
- C. Each Village of Mamaroneck officer or employee shall receive ethics training, in such form as determined by the ethics board after consultation with the appropriate department head, as least once each year.

§21-19. Annual reports; review of ethics laws.

- A. The ethics board shall prepare and submit an annual report to the Board of Trustees summarizing the activities of the board. The report may also recommend changes to the text or administration of the Chapter.
- B. The ethics board shall periodically review this Chapter and the board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Village of Mamaroneck government and whether they set forth clear and enforceable, common sense standards of conduct.

§21-20. Public inspection of records; public access to meetings.

- A. The only records of the ethics board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law or by other state or federal law or by this Chapter.
- B. No meeting or proceeding of the ethics board shall be open to the public, except as required by the provisions of Article 7 of the Public Officers Law or by other state or federal law or by this Chapter or upon the request of the affected officer or employee and with the agreement of the ethics board.

§21-21. Miscellaneous provisions.

- A. No existing right or remedy shall be lost, impaired, or affected by reason of this Chapter.
- B. No public officer or employee shall induce any other person to violate, attempt to induce any other person to violate, or aid any other person in violating, any provision of this Chapter. Any person who violates this section has committed a violation of this Chapter.
- C. Nothing in this Chapter shall be deemed to bar or prevent a present or former Village of Mamaroneck officer or employee from timely filing any claim, account, demand, or suit against the

Village of Mamaroneck on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

- D. If any provision of this Chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this Chapter.

§21-22. Whistleblower protection.

- A. No Village officer, employee or board member shall retaliate against any Village officer, employee or board member or other person acting in good faith for, notwithstanding any other provision of this Chapter; 1) submitting a complaint to the Board of Ethics; 2) reporting alleged waste, inefficiency, corruption, criminal activity or conflicts of interest to any federal, state or county regulatory or investigative authority, as expressly permitted by federal, state or county law; or 3) providing information to the Board of Ethics or to a federal, state or county regulatory or investigative authority; or 4) acting or refusing to act as required by this Chapter and Article 18 of the General Municipal Law. No action protected by this section shall be considered a violation of this Chapter.
- B. Any Village officer, employee or board member who violates this section has committed a violation of this Chapter.
- C. In resolving a complaint that a Village officer, employee or board member has violated this section, the Board of Ethics may, among other things, recommend that a retaliatory personnel or regulatory action be reversed.

Section 2. Severability.

If any provision(s) of this Chapter shall be declared unenforceable in a final and nonappealable order of a court of competent jurisdiction, it shall not affect the validity of the remaining provisions of this Chapter. The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 3. Effective date.

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

Ayes: Robinowitz, Hofstetter, Ryan, Murphy, Savolt
Nays: Nays

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO, CLERK-TREASURER