

LOCAL LAW #1 OF THE YEAR 2015

BE IT ENACTED by the Town Board Of The Town Of Ossining, New York, as follows:

Section 1: Title

This Local Law shall be known and cited as “Local Law # 1 of 2015, for the purpose of amending the Code Of Ethics of the Town Of Ossining, regarding The Statement of Legislative Intent, Establishment; Membership, Duties of The Ethics Board and Distribution Of Copies , amending Sections 20-1, 20-7, 20-8, 20-10, of the Ethics Code of the Town of Ossining.

Section 2: Legislative Intent

The Town Board would like to clarify and improve the Code of Ethics of The Town of Ossining by changing certain provisions providing for the establishment, membership and functioning of the Board of Ethics. This Local Law is determined to be an exercise of the legislative powers of the Town to strengthen the Code of Ethics for the protection of the health, safety and welfare of residents and to provide for improvements in the manner in which ethics questions and matters are addressed and handled by the Town.

Section 3: Sections 20-1, 20-7, 20-8 and 20-10 of the Code of Ethics of The Town of Ossining : Shall be replaced and Amended in the following manners, to read as set forth below:

Chapter 20, Article II, Section 20-1 of the Town of Ossining Code of Ethics is amended as follows:

_____§20-1 Statement of Legislative Intent

The Town Board of the Town of Ossining 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, and to investigate complaints alleging violations of the Code of Ethics in the manner provided for in this Article, and to make findings of fact and recommendations to the Town Board in connection with such investigations.

Chapter 20, Article II, Section 20-7 of the Town of Ossining Code of Ethics is amended as follows:

§20-7 Establishment; Membership.

There is hereby established a Board of Ethics (sometimes referred to as “the BoE”) consisting of five members to be appointed by the Town Board. All members of the BoE shall be residents of the Town of Ossining. At least one member of the BoE shall not be a lawyer. Each member shall serve without compensation for a term of five years from the date of appointment. The term of five years is intended to be equal to the number of members of the BoE so that the term of only one member of the BoE shall terminate at the end of each calendar year. Immediately following passage of this section, some of the initial appointments or reappointments of members of the shall be for terms of less than five years so that at the end of each calendar year, the term of one member of the BoE will expire. Upon the expiration of each member’s initial appointment, the reappointment of that member or the appointment of a new member to take his / her place shall be for a term of five years. If a vacancy on the BoE shall occur other than by the expiration of a member’s term, the Town Board shall appoint a new member for the unexpired portion of that term. The Town Attorney or Deputy Town Attorney shall serve as an advisor to the Board of Ethics, and shall not be a voting member.

Chapter 20, Article III, Section 20-8 amended as follows:

§ 20-8 Duties of the Board of Ethics: Advisory Opinions, Complaints, Form and Content of Complaints, Investigations and Hearings Following Receipt of Complaints; Findings of Fact and Recommendations; Town Board Actions Following Receipt of Advisory Opinions and Findings of Fact and Recommendations, Miscellaneous Provisions, Penalties for Offenses.

A) The Board of Ethics shall have all of the powers and duties prescribed by Article 18 of the General Municipal Law and as provided in this chapter.

- i) The BoE shall provide written advisory opinions in response to: a) a written request of the Town Board; or b) the written request of a present or prospective Town employee with respect to his/her own past, present, contemplated or planned actions, or c) the written request of a contractor presently doing business with the Town, or who has bid for or is in the process of bidding to do business with the Town.
- ii) The request for an advisory opinion ("the request") shall be filed with the Town Clerk who shall keep it confidential and shall forward it to the Board of Ethics within ten (10) days of receiving it.

iii) Absent extraordinary circumstances, the BoE shall issue its advisory opinion no later than thirty (30) days after receiving the request from the Town Clerk. Unless there is good cause to do otherwise, and subject to the other provisions of this chapter relating to the confidentiality of advisory opinions issued by the BoE, the BoE shall release its advisory opinion to the Town Clerk and to the Town Board. To the extent practicable, the BoE shall redact the name, address and any other personally identifiable information of the person or entity who made the request. The Town Clerk shall forward a copy of the BoE's advisory opinion to the person or entity who submitted the request. Thereafter, the advisory opinion shall be available for inspection by the Town Board, any town employee who wishes to review it, and members of the general public.

B) The Board of Ethics shall have the power and duty to receive and, within a reasonable time thereafter, investigate any written complaint (“the complaint”) regarding a town employee’s alleged violation of the Town of Ossining Code of Ethics, Article 18 of the N.Y. General Municipal Law and any other applicable law or regulation relating to the ethical conduct of any town employee in accordance with the following:

i. The complaint may be submitted by any of the following individuals or entities: a) a town employee; b) an owner of residential or commercial real property located within the Town; c) a business owner located within the Town; d) a lessee of residential real property or a cooperative apartment located in the Town; or e) any individual or entity doing business with the Town. The complaint shall consist of a written statement made under oath or affirmed under penalty of perjury, substantially in the form contained within this Article. It shall contain factual allegations detailing the nature of the allegedly unethical conduct which shall be based upon the complainant’s personal knowledge or upon information and belief.

ii. The complaint shall be filed with the Town Clerk. Within 10 days after receiving the complaint the Town Clerk shall transmit five copies and any supporting documents submitted with it to the members of the Board of Ethics. Subject to any contrary provisions of this Article or as otherwise authorized or provided by law, the Town Clerk, the Town Board and the BoE shall keep confidential the complaint and its contents, any proceedings conducted in connection with the complaint, and any findings and recommendations made thereafter by the BoE.

iii. Within a reasonable time after receiving a complaint from the Town Clerk, the Board of Ethics shall investigate the complaint, and shall, as the majority of its members deem necessary and appropriate, hold hearings, request production of documents, interview witnesses and administer oaths. The Board of Ethics shall take all necessary steps

to protect each individual's right to due process at every stage of the proceeding. Due process rights shall include, among other things: a) providing written notice to the town employee that a complaint has been filed no later than five (5) days after the BoE determines that the complaint sets forth sufficient facts to believe that an ethics violation may have occurred, simultaneously transmitting to him/her a complete copy of the complaint and all supporting papers; c) affording the town employee any due process rights required in applicable union contracts with the Town; and d) affording the town employee the right to be represented by counsel.

- iv. If, by a vote of the majority of its members, the BoE finds that the complaint and/or its investigation and/or related proceedings fail to provide reasonable cause to believe that the employee or officer who is the subject of the complaint has committed one or more violations of the Town of Ossining Code of Ethics, the provisions of Article 18 of the General Municipal Law, or any other ethical violation prohibited by this chapter, it shall issue findings of fact and recommendations stating in reasonable detail the nature of the investigation, and the reason(s) why it believes that no violation has been committed. Subject to the confidentiality provisions of this chapter and as otherwise provided by law the BoE shall, in that circumstance, forward its opinion and findings to the Town Board and, simultaneously to the town employee who is the subject of the complaint.
- v. If, by a vote of the majority of its members, the BoE finds that that the employee or officer who is the subject of the complaint has committed one or more violations of the Town of Ossining Code of Ethics, the provisions of Article 18 of the General Municipal Law, or any other ethical violation prohibited by this chapter it shall submit to the Town Board written detailed findings and recommendations setting forth, among other things, the nature of the charges and the

BoE's investigation, its findings of fact, and the provisions of the Town of Ossining Code of Ethics or Article 18 of the General Municipal Law, or any other ethical violation prohibited by this chapter. The findings and recommendations shall, in that event, contain a recommendation regarding disposition of the complaint and the type of sanction or punishment, if any, to be imposed upon any town employee found to have violated the Town of Ossining Code of Ethics, Article 18 of the General Municipal Law, or any other ethical violation prohibited by this chapter.

- vi. Within a reasonable period of time after receiving the BoE's findings and recommendations, the Town Board shall issue a written decision and order accepting in whole or in part or rejecting in whole or in part the findings and recommendations of the BoE. The decision and order shall state in reasonable detail the basis for the Town Board's decision to accept or reject the findings and recommendations of the BoE. Within five business days after the Town Board issues its decision and order, the Town Clerk shall serve a true and accurate copy of the decision and order upon the town employee who was the subject of the complaint. Personal service of the decision and order upon the town employee or by regular mail to the town employee's last known residence address shall be sufficient.
- vii. No meeting or proceeding of the Board of Ethics concerning any complaint forwarded to the BoE by the Town Board or by the Town Clerk shall be open to the public except upon request of the Town employee who is the subject of the complaint, or as required by Article 7 of the Public Officers Law or by any other applicable local, state or federal law or regulation.
- viii. Except where otherwise provided by Articles 6 or 7 of the Public Officers Law, and/or subject to the relevant provisions of any other applicable law or lawful mandate of a court or other government

agency or body having the authority to compel the production of records regarding the work of the Board of Ethics, all records of the BoE, including among other things, requests for advisory opinions, complaints, files, witness statements, minutes of hearings and documents provided to or received by the Board of Ethics shall be kept confidential by the BoE, the Town Clerk and by the Town Board.

- ix. In addition to the foregoing powers and duties, the Board of Ethics may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto, on their own initiative or upon request of the Town Board.
- x. In addition to any other penalty provided by law, any town employee who shall knowingly and intentionally act in a manner that violates any of the provisions of this chapter may be privately admonished, publicly censured, fined, suspended or removed from office or employment in the manner provided by law.

Chapter 20, Article IV, Section 20-10 (Distribution of Copies) is amended as follows:

§20-10 Distribution of Copies.

- A) Upon adoption of this Chapter and as otherwise provided herein, the Town Supervisor and/or his/her designee shall cause a copy of the Code of Ethics to be distributed to every Town employee upon his / her employment with the Town and at least once every three years thereafter while employed by the Town.
- B) Each Town employee who has received a copy of the Code of Ethics shall sign and date a form acknowledging that a copy of the Town Code of Ethics has been received, read, understood, and that the employee agrees to be bound by the Code of Ethics. Such forms shall be returned

to the Town employee's supervisor for transmittal to the Town Clerk within twenty days of the employee's receipt of the Code of Ethics.

C) The Town Supervisor and/or his/her designee shall cause a revised or amended Code of Ethics to be distributed to Town employees whenever substantial amendments have been made to the Code of Ethics. Town employees shall acknowledge in writing receipt of the revised Code of Ethics.

D) The Town Attorney shall cause each person or legal entity signing a contract with the Town providing for payments in excess of \$25,000 to be given a copy of the Code of Ethics and such person or legal entity subject to this provision shall be required to acknowledge receipt thereof in writing unless the Code of Ethics is referenced in and attached to the signed contract.

E) Failure to distribute any such copy of the Code of Ethics 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 hereof. 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 of the provisions hereof.

Section 4: Ratification, Re-adoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining, as adopted and amended from time to time thereafter is

otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5: Inclusion in The Code

It is the intention of the Ossining Town Board and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; and that the sections and subsections of this Local Law may be renumbered or read letter to or accomplish such intention; and that the word “local law” shall be changed to “chapter”, “section” or other appropriate word, as required for codification.

Section 6: Renumbering

The location and numerical designation of this Local Law and the sections included here in shall be delegated to the discretion of the codifier, General Code, which may renumber this Local Law and sections as are necessary to accommodate these amendments.

Section 7: Codification

This Local Law shall be incorporated into the Code of the Town of Ossining and shall be assigned a chapter number and appropriate section number by the codifier, General Code, in accordance with the numbering system of the Code.

Section 9: Codifier’s Changes

This Local Law shall be included in the Code of the Town of Ossining. The codifier shall make no substantive changes to this Local Law, but may renumber, rearrange and edit it without first submitting it to the Ossining Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this Local Law of the provisions of the code affected thereby.

Section 9: Codifier’s Changes

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality,

invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt therefrom.

Section 10: Effective Date

This Local Law shall take effect immediately upon adoption and filing with the Sec. of State as provided by the Municipal Home Rule Law.