

PROPOSED LOCAL LAW \_\_\_\_ – 2023

A Proposed Local Law to amend the Chapter 21 (Code of Ethics) of the Code of the Village of Mamaroneck

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

(Language in strike-through ~~abcdeghijk~~ to be deleted; language in **bold** is to be added)

Section 1.

Chapter 21 of the Code of the Village of Mamaroneck (Ethics) is amended as follows:

§ 21-1 **Declaration of policy.**

The Board of **Trustees** of the Village of Mamaroneck recognizes that it must establish high standards of ethical conduct for officers, **elected and appointed** board, **commission and committee** 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, to establish those standards while** ~~affording officers, board members and employees of the Village those persons to whom this chapter applies~~ clear guidance on ethical standards, ~~to require~~ **requiring** public disclosure of interests that may influence or appear to influence the actions of Village officers, board, **commission and committee** members and employees and ~~to provide~~ **providing** 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.

**Commented [DK1]:** The Ethics Board recommends qualifying this reference to "elected officials"

§ 21-2 **Applicability of other laws.**

This Chapter is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 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 interests of ~~public officers, employees and board members~~ **covered persons, as that terms defined in this chapter**, in contracts. To the extent this chapter is inconsistent with the provisions of § 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 meanings indicated:

**ANNUAL DISCLOSURE STATEMENT**

**The statement required section 21-6(C) of this Chapter to be filed each year by each designated person.**

**APPEAR/APPEAR BEFORE**

**Communicating in any form, including without limitation, in person or through another person or business entity, by letter, email, facsimile, telephone or other means of communication.**

## APPLICANT

A person who applies to be employed by the Village or a person or business entity that applies for a zoning change, variance, special permit, site plan approval, subdivision approval, license or other approval or permit under the Code of the Village of Mamaroneck.

## APPLICATION DISCLOSURE STATEMENT

The statement required by section 21-6(E) of this Chapter to be filed by each applicant.

## BUSINESS DEALING

Having or providing any contract, service, or work with or to the Village; or 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.

## BUSINESS ENTITY

A corporation, limited liability company, limited liability partnership, partnership, sole proprietorship or other business entity or a not-for-profit corporation or other organization.

## CONFIDENTIAL INFORMATION

Information in any format that is (1) prohibited from disclosure by federal, state or local law or ordinance or by resolution of the Board of Trustees; or (2) exempt from mandatory disclosure under the New York State Freedom of Information Law (FOIL); or not required to be discussed in a public meeting under the New York State Open Meetings Law. Confidential Information includes, but is not limited to, non-public information such as requests for proposals or bid specifications prior to publication and bids or responses to request for proposals submitted by persons or business entities.

## COVERED PERSON

Members of the Village Board of Trustees, employees, officers, and consultants of the Village, members of Village agencies, whether compensated or uncompensated, except where otherwise provided in this chapter or by article 8 of the General Municipal Law. Volunteer firefighters, auxiliary police officers and civil defense volunteer other than Fire Chiefs and Assistant Fire Chief are not covered persons.

## CUSTOMER/CLIENT

Any person or any business entity to whom or to which a covered person has sold or supplied goods or services to the Village during the previous 12 months having, in the aggregate, a value greater than \$1,000, and any covered person or business entity whose outside employer or business entity has supplied goods or services to the Village during the previous 24 months having in the aggregate, a value greater than \$1,000, but only if the person knew or had reason to know the outside employer or business entity supplied such goods

**Commented [Daniel Ka2]:** The Ethics Board recommends reinstating the deleted categories Many recusals are attributable to these categories.

**Commented [Daniel Ka3]:** The Ad Hoc Committee qualified this definition to exclude minor compensation. There was a concern that the clause could unduly or unintentionally disqualify or discourage volunteers in a village of our size:  
A corporation, limited liability corporation, limited liability partnership, partnership, sole proprietorship or other registered business of which an officer or employee of the Village of Mamaroneck is a member, partner, owner, director or employee, for which an officer or employee of the Village of Mamaroneck receives compensation of more than \$5,000 per year, or a not-for-profit organization or other organization, association or business entity, of which a person is a director, officer or employee.

**Commented [Daniel Ka4]:** The Ad Hoc Committee's definition was broader, to be specific, and based on the many denominations of groups that exist:

agencies, boards, commissions, committees, councils, departments and any other Village body created or existing by law or appointment,

or services to the Village.

#### DEBAR

To prohibit a recipient from participating in Village procurement contracts.

#### DEPENDENT

Any person whom the covered person claims as dependent for income tax purposes.

#### DESIGNATED PERSON

Any covered person who is required to file an Annual Disclosure Statement.

#### DISCRETIONARY ACTION

Any act involving the exercise of judgment or discretion by a ~~Village officer or employee~~ **covered person**, either individually or as a member of any board, body, department, **commission** 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~~ **a covered person 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 covered person has~~ **a covered person has** a direct interest in the affairs of **a relative, a business entity in which a covered person is a member, partner, owner, director, officer or employee or a corporation, in which five percent or more of the corporation's stock is owned or controlled, directly or indirectly, by a covered person.**

~~A. His/her spouse, minor child, stepchildren, mother, father, brothers, sisters, grandparents, grandchildren, in-laws and other dependents or relatives.~~

~~B. A business concern, partnership or association of which such officer or employee is a member, partner, owner, director or employee.~~

~~C. A corporation of which such officer or employee is an officer, director or employee.~~

~~D. 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~~

**Commented [Daniel Ka5]:** The Ad Hoc Committee preferred spelling out numbered periods of time – e.g. twenty-four vs. 24 – on the principal that the law presumed that a spelled version was clearer and unambiguous.

~~volunteer shall be deemed an officer or employee, except a Fire Chief or Assistant Fire Chief.~~

## **OUTSIDE EMPLOYER**

**An employer, other than the Village, of a covered person.**

## **RELATIVES**

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

**A spouse, domestic partner, parent, step-parent, sibling, half-sibling, step-sibling, spouse of a sibling, child, step-child, uncle, aunt, nephew, niece, first cousin of a covered person, and any other person who resides in the home of or is a dependent of a covered person.**

**Commented [DK6]:** The Ethics Board believes that "grandchild," "grandparent" and "in-law" should be restored

## **TRANSACTION**

**Any business dealing with or any application, petition, request or receipt of any approval, grant, loan, license, permit or other privilege from any Village Agency.**

## **TRANSACTIONAL DISCLOSURE STATEMENT**

**The statement required by section 21-6(D) of this chapter to be filed by each designated person.**

## **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 AGENCY**

**Any board, commission, committee, council or other body established, operated or funded by the Village or by the Village jointly with one or more other municipalities or government entities, including, but not limited to, the Village Board of Trustees, Planning Board, Zoning Board of Appeals and Harbor and Coastal Management Commission.**

## **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.**

**Commented [DK7]:** The Ethics Board recommends that the code, when finalized, capitalize all words which are intended to refer to their inclusion in the Definitions section – such as here: "Agency".

## **VILLAGE OFFICER**

~~Any elected official of the Village of Mamaroneck.~~

## **§ 21-4 Standards of conduct.**

### **A. General prohibition standards.**

- (1)** Every covered person ~~shall~~**must** endeavor to pursue a course of conduct consistent with the Declaration of Policy and other ~~sections~~**provisions** of this chapter and strive to act so as not to raise reasonable suspicion among the public

that he or she may or is likely to be engaged in activities conduct that is in violation of the public's confidence and trust.

- (2) ~~A Village officer, board member or employee~~ **A covered person shall must** not use ~~his or her~~ **the covered person's** official position or office, or take or fail to take any discretionary action, in a manner which ~~he or she~~ **the covered person** knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

- (a) ~~The Village officer or employee~~ **Any covered person;**
- (b) ~~His or her outside~~ **Any covered person's** employer **(other than the Village);**
- (c) ~~A member of his or her household~~ **A covered person's relative;**
- (d) A customer or client;
- (e) ~~A relative; or~~
- (f) ~~Any firm, corporation, association, partnership or other organization~~ **business entity** in which the ~~Village officer, board member or employee,~~ **covered** person or a relative of the covered person has a financial or pecuniary interest or; serves as an employee, officer or director, whether compensated or not compensated, or of which ~~he or she~~ **the covered person or the covered person's relative** legally or beneficially owns or controls more than ~~5%~~ **five percent** of the outstanding stock or has authority to decide upon **dispensing** grants or other monetary benefits.
- (f) **Any person or business entity that is a customer or client of the covered person.**

**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~~

**Commented [Daniel Ka8]:** "financial" and "pecuniary" probably mean the same thing: monetary. We should use "financial" throughout.

~~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.~~

**B. Covered persons with responsibility for inspections and permits. A covered person with the authority, either individually or as a member of a board, commission or other Village agency, to conduct inspections or issue permits or other Village approvals is not permitted to:**

- (1) engage in a business activity or have a financial interest in any business entity that conducts such inspections or applies for or assists in applications for such Village permits as a regular and significant part of its business; or**
- (2) conduct any inspection or issue any permit with respect to an application in which the covered person's outside employer or business has been involved.**

~~(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~~ **A covered person must** promptly recuse himself/herself from ~~acting on~~**participating in** a matter before the Village when acting on the matter, or failing to act on the matter, may benefit the persons ~~listed~~**identified** in § 21-4(A)(2), 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~~**covered person** is required to recuse himself/herself, ~~he/she~~ **the covered person** must do so on the record and/or in writing, ~~and~~ refrain from any further participation in the matter, and absent himself or herself from any discussion of the matter, **whether in a public meeting or any executive session or other non-public meeting.**

**D. Gifts and solicitations.**

- ~~(1) No Village Officer, board member, employee or consultant shall~~ **A covered person must not** directly or indirectly solicit **or accept** 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 or business partnership, corporation or other entity which has a business relationship dealing with the Village of Mamaroneck.~~ However, a ~~Village officer, board member or consultant~~ **covered person** 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~~ **the aggregate value of the gifts** from a single source ~~of~~ **does not exceed \$50** in any one calendar year and ~~the gifts were not received under circumstances in which it might reasonably might be inferred that such the gift or gifts were intended to influence the Village officer or employee~~ **covered person** in the performance of ~~his or her~~ the covered person's duties or were rewards or tips for any official acts by the ~~employee covered person.~~

**Commented [DK9]:** The Ethics Board recommends raising the permissible value to a higher, reasonable number, recognizing the impact of inflation, and wishing to avoid a situation where a token gift in current dollars could violate the intent of this prohibition.

- (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~~ **covered person's** duties and responsibilities as a public official or allows the ~~public official~~ **covered person** to perform a ceremonial function appropriate to ~~his or her~~ **the covered person's** position.
  - (b) Complimentary attendance, including food and beverage, at bona-fide 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 that is given to the Village of Mamaroneck, is accepted by the covered person 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 organization's name, logo or message in a manner which promotes the organization's cause; **and**
  - (g) Political contributions that are subject to disclosure **and not otherwise**

**prohibited by law.**

- (3) ~~No Village officer, board member or employee shall~~ **A covered person must not**, directly or indirectly, solicit any gift, contribution, or donation from any person **or business entity** on Village property.
- (4) ~~No Village Officer, board member, employee or consultant shall~~ **A covered person must not**, directly or indirectly, solicit any gift, contribution or donation from any subordinate employee or ~~board member~~ **of any Village agency, board, commission, committee, council, department or and any other Village body.**

**E. Nepotism.**

- (1) ~~Policy. Employees' relatives will not~~ **A relative of a covered person must not** be employed by the Village on a full-time basis under any of the following circumstances:
  - (a) ~~Where one of the parties~~ **either the covered person or the covered person's relative** would have authority (or practical **power**) to supervise, appoint, remove, or discipline the other;
  - (b) ~~Where one party~~ **the covered person or the covered person's relative** would be responsible for auditing the work of the other;
  - (c) ~~Where both parties~~ **the covered person and the covered person's relative** 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 ~~a potential conflict among the parties or conflict between the interests of one or both parties~~ **the covered person or the covered person's relative** and the best interests of the Village; or
  - (e) ~~Where one of the parties~~ **the covered person or the covered person's relative** is an elected official, except when the ~~family member~~ **relative** is ~~currently~~ **was** employed by the Village prior to the elected official ~~obtaining~~ **attaining** office or ~~if where the family member~~ **relative is currently employed** by the Village and becomes a family member of ~~an~~ **the elected official after being an employee of the Village.**
- (2) Any employee ~~currently employed~~ **whose employment by the Village began** prior to ~~the adoption of this chapter shall be~~ **January 15, 2009 is exempt from this § 21-4(E).**

**F. Disclosure of confidential information.**

**Commented [Daniel Ka10]:** Is the broader inclusion of entities here intentionally more numerous than in the definition of "Village agency" above?

**Commented [Daniel Ka11]:** The Ad Hoc Committee recommended that the term "practical power" be deleted. It is not definable and probably would be adjudicated as void for vagueness.

**Commented [DK12]:** A view was expressed by Ethics Board members that in a small government office this provision is overly restrictive



- (1) ~~No Village officer, board member, Village employee or Village consultant shall disclose~~ **A covered person must not disclose** information acquired by ~~him or her~~ **the covered person** in the course of official duties or use such information to further ~~his/her~~ **the covered person's** personal interests or the private interests of others.
  - (2) ~~No Village officer, board member, Village employee or Village consultant shall~~ **A covered person must not** accept employment or engage in a business or professional activity which will require ~~him or her~~ **the covered person** to disclose confidential information gained by reason of ~~his or her~~ **the covered person's** official position or authority.
- G. Misuse of authority.** ~~No Village officer, board member, Village employee or Village consultant shall~~ **A covered person must not** use or attempt to use ~~his~~ **the covered person's** official position to secure unwarranted privileges or exemptions for ~~himself/herself~~ **the covered person** or others.
- H. Misuse of privilege.** ~~No Village officer, board member, Village employee or Village consultant shall~~ **A covered person must not act so as to** ~~by his or her conduct~~ give a reasonable basis for the impression that another can improperly influence ~~him or her~~ **the covered person** or unduly enjoy ~~his or her~~ **the covered person's** favor in the performance of ~~his~~ **the covered person's** official duties or that ~~he/she~~ **the covered person** 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~~ **A covered person must not** engage in, receive compensation for, or enter into any agreement for employment, express or implied, when such employment or service creates or may reasonably create a conflict with or may reasonably impair the proper impartial discharge of **the covered person's** duties.
- J. Investments.**
- (1) ~~No Village officer, board member, Village employee or Village consultant of the Village of Mamaroneck shall~~ **A covered person must not** invest or hold any investment, directly or indirectly, in any ~~financial, business, commercial~~ **business entity** or other ~~private~~ transaction, which creates a conflict with ~~his or her~~ **the covered person's** official duties.
  - (2) ~~No Village officer, board member, Village employee or Village consultant shall~~ **A covered person must not** engage in any ~~enterprises which he~~ **activity that the covered person** has reason to believe may be directly involved in ~~a~~ decisions to be made or advice to be given by ~~him or her~~ **the covered person** or which will otherwise create ~~substantial~~ **a conflict of interest** between ~~his or her~~ **the covered person's** duty ~~and~~ **to act in** the public interest and ~~his or her~~ **the covered person's** private interest.

K. Present and future employment.

- (1) ~~No Village officers, board members or employees~~ **A designated person** obligated under this chapter to file financial disclosure forms will accept present or future employment **must not**, within two years following separation from termination of his or her service with the Village, accept present or future employment with any person or **business** entity with any that engages in any transaction business dealings with the Village of Mamaroneck unless such the potential employment is disclosed to and approved by the Board of Trustees before being it is accepted by the officer or employee and is approved prospectively by such board.

- (2) ~~No Village officer, board member, employee or Village consultant shall, presently or 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 current or 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 or service, they may not appear before any Village board or commission for a period of three years following termination.~~

**A covered person must not, for two years after termination of the covered person's service with the Village, appear as part of his or her employment before any Village agency or engage in any official Village business, transaction or professional activity with any Village officer, except with the prior approval of the Board of Trustees.**

- (3) ~~No elected Village officer after the conclusion of service with the Village, shall~~ **A covered person must not** appear, **whether paid or unpaid**, before any board, agency or commission of the Village **Agency** 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 or other matter involving the same party or parties with respect to which the covered person had participated personally and substantially as a covered person through deliberation, decision, approval, recommendation, investigation or other similar activities.

L. Discrimination. ~~No Village officer, board member, employee or Village consultant~~ **A covered person** or any service or other organization chartered by the ~~Board of Trustees~~ or directly or indirectly sponsored or supported by the Village **Agency** shall **must not**:

**Commented [DK13]:** This provision was discussed at length by the Ethics Board. There was a strong view expressed that the approval application and the probable waiting time for approval was unrealistic, given the customary time pressure on an employee and employer to make a commitment, and also and would penalize an employee where a conflict was clearly not present. Some members of the Ethics Board recommended that an application for waiver be deemed granted unless the Board of Trustees denied approval within a stated reasonable period of time.

- (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, ~~or employee-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,~~ **Knowingly allow, cause or enable** the Village ~~knowingly~~ to have any financial or business dealings with any **business entity** or 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~~ **A covered person may must not** 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~~ **A covered person must not may** take part in any contracting decision relating to the employee, ~~relating to the covered person,~~ a relative, ~~or relating to any business entity in which the employee covered person or a relative is an officer, director or partner, or in which a relative owns or controls 5% five percent or more of the stock of such that entity.~~ If a contracting matter arises ~~relating to the employee or a relative, then the employee in which the covered person has an interest that would require the covered person's recusal under this chapter, the covered person must promptly advise his or her the covered person's supervisor, in the case of a Village employee, or the Board of Trustees, in the case of a covered person who is not an employee, of the relationship within 72 hours learning of the relationship, and must be-recused recuse from participating in 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 any covered person~~ knows thereof, ~~any Village officer, board member and/or employee with respect to matters~~ **or learns of any direct or indirect interest the covered person may have in legislation or official action pending before the Village with respect to any matter in which the covered person participates or in which the Village Agency on which he or she serves participates or in which her/his board is involved in the decision-making process, shall the covered person must** specifically and fully disclose on the official record of the Board of Trustees at a regular public meeting thereof **of that Board, either in person or by a writing that is made part of the official record, the nature and extent of any direct or indirect interest that the covered person has in the legislation or official action pending before the Village.**

**Commented [Daniel Ka14]:** The Ad Hoc Committee specified "the next regular public meeting". As written, the notification could be made after the time required to speak up.

~~Such-The~~ public disclosure by the ~~officer, employee or board member shall~~ **covered person must** include disclosure of any political contributions made **to the covered person's political committee** by ~~any the~~ applicant **for the legislation or other official action**, ~~his/her the applicant's~~ 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~~ **with respect to political contributions 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~~ **A covered person must not** induce, threaten, ~~or~~ coerce or aid another ~~officer or employee of the Village~~ **covered person** to violate any of the provisions of this Code of Ethics.

P. ~~Village employees~~**Use of subordinate employees.** ~~No An~~ officer or employee **of the Village shall must not** 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~~ **must** not wear any Village-issued uniform while engaged in any such activity.

Q. ~~Village property~~**Property.** ~~No officer or employee shall~~**A covered person must not** 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~~**covered person** 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~~**covered person'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~~**covered person**.

Commented [Daniel Ka15]: The Ad Hoc Committee added the word "services"

R. Provisions in subsections A through Q. ~~Provisions in subsections A through Q hereinabove are a comprehensive, but not necessarily exclusive, list of provisions regarding ethical behavior of Village employees, board members and officers~~**covered persons. Village employees, board members and officers****If a covered person is in doubt regarding any particular behavior or issue, the covered person should seek the assistance of request an advisory opinion from the Board of Ethics when in doubt regarding any particular behavior or issue.**

#### § 21-5 Designation of designated persons required to file Annual Disclosure Statements.

A. Within 72 hours of the annual meeting of the Board of Trustees held pursuant

Code of Ethics Revision v.1

to Section 3-302 of the Village Law of the State of New York, the Board of Trustees must cause a list of designated persons to be filed with the Ethics Board and the Village Clerk-Treasurer.

- B. The Clerk-Treasurer must notify each designated person by January 15th of each year of his or her obligation to file an Annual Disclosure Statement and provide each covered person with the form of Annual Disclosure Statement. The Village Clerk-Treasurer must also make the form of the Annual Disclosure Statement available in the Village Clerk-Treasurer's Office and on the Village website.

§ 21-6. Distribution of Code of Ethics; disclosure of interest.

- A. **Distribution of Code of Ethics.** Pursuant to New York General Municipal Law § 806, the Village Manager ~~shall~~ **must** cause a copy of this Code of Ethics **and either a copy of or an electronic link to General Municipal Law § 807** to be distributed to each ~~Village officer, board member, employee, and consultant to the Village~~ **covered person** upon the adoption **or amendment** of this chapter and at the time of commencement of each person's service in ~~each a new capacity~~ **position**. Each ~~official, employee, and consultant shall~~ **covered person must** acknowledge, in writing, that he or she has received, read, and understood this Code of Ethics. Failure to distribute, ~~or receive, or acknowledge receipt of such copy shall the copies or link have a copy of the Code of Ethics~~ has no effect on the covered person's duty of ~~compliance with such Code to comply with the Code of Ethics~~ or on its enforcement.
- B. **Posting of General Municipal Law § 807.** As required by General Municipal Law § 807, the Village Manager must post a copy of General Municipal Law §§ 800 through 809 in a conspicuous place in each public building.
- C. ~~Initial and annual~~ **Annual disclosure.** Every ~~designated officer, board member and employee is required to~~ **covered person must** file an ~~initial disclosure form~~ **Annual Disclosure Statement** with the ~~Board of Ethics~~ **Board on or before February 15th of each year**. 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~~ **If a change occurs with respect to the information a covered person sets forth in the Annual Disclosure Statement changes, the covered person must file an amended Annual Disclosure Statement** ~~statement reflecting any change, and must provide a copy of the amended Annual Disclosure Statement to the designated person's supervisor, if the designated person is a Village employee, or to the Board of Trustees, if the designated person is not a Village employee, shall be filed within 30 days of such the change. Failure to file the a required disclosure statement or amended disclosure statement is shall be deemed a violation of this chapter. A copy of said form is annexed to this chapter as Appendix A.[1] All forms shall be on file in~~

**Commented [DK16]:** The Ethics Board recommends "Clerk-Treasurer" rather than Village Manager

~~the office of the Village Clerk-Treasurer.~~

- D. Transactional disclosure. Any ~~Village officer, board member, employee, or consultant~~ **covered person** who has ~~a direct or indirect private~~ **an** 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 a~~ transaction, or ~~whom~~ **knows** that a relative has such ~~an~~ **private** interest, ~~shall~~ **must** publicly disclose the nature and extent of that ~~private~~ interest on the record of the ~~board, court, commission, district, department, committee, or Village~~ agency before which ~~such the~~ transaction is pending and ~~shall~~ **must** file a **written** copy of such disclosure with the Village Clerk-Treasurer, **the Ethics Board and to the covered person's immediate supervisor, in the case of a Village employee, or to the Board of Trustees, in the case of any other covered person. The agency to which the disclosure is made must maintain the disclosure as part of its public records. The Ethics Board of Ethics shall** ~~must~~ review ~~such disclosure~~ **the disclosure** in a timely manner. The covered person ~~shall have~~ **has** a continuing duty to disclose any ~~such direct or indirect personal interest in the transaction~~ that becomes known to the covered ~~party~~ **person. In the event of a change in** ~~If the~~ information contained in the Transactional Disclosure ~~changes~~, the covered person ~~shall~~ **must** file an amended Transactional Disclosure **setting forth the changed information** within ~~thirty~~ **30** days of ~~such the~~ change, ~~setting forth the change of information.~~
- E. ~~Disclosure upon application~~ **Applicant disclosure.** Any ~~Every~~ applicant for employment or a change of zoning, variance, special permit, site plan approval, subdivision ~~approval~~, or other permission pursuant to the zoning and planning regulations of the Village ~~shall~~ **must** disclose as part of the application the name, nature and extent of ~~the any~~ **interest of any covered person in the application that is known to the applicant** ~~of any Village employee, officer, board member or consultant in the application or in the applicant, including~~ **and whether the Village officer, board member, employee or consultant** ~~covered person~~ **is required to take any discretionary action with respect to the application. The covered applicant shall have** ~~has~~ a continuing duty to disclose any ~~such direct or indirect personal interest of a covered person~~ that becomes known to the ~~covered~~ applicant.
- F. Upon the request of a covered person or applicant, and for good cause shown, the Ethics Board may extend the time within which the covered person or applicant must file a required disclosure statement. The Ethics Board must inform the covered person or applicant of the extended date on which the filing is due.
- G. Failure by a covered person or applicant to file a required disclosure statement on the date on which the disclosure is due to be filed, or on an extended date approved by the Ethics Board, is punishable by a fine not to exceed five hundred dollars. For each additional 30-day period during which a covered person or applicant fails to file the disclosure statement, the failure to file is punishable

by a fine not to exceed five hundred dollars. The Ethics Board may reduce or waive the fine upon application by the covered person or applicant and for good cause shown.

- H. If a covered person who is an appointed member of a Village Agency, except a member of the Board of Trustees, fails to file a required Annual Disclosure Statement by the date due for filing, or by an extended date approved by the Ethics Board, the covered person may not participate in the meetings or other activities of the Village Agency until the Village Clerk-Treasurer certifies to the agency that the member has duly filed the required disclosure statement. A covered person whose participation is suspended for failure to file a required disclosure statement is not eligible for appointment to any Village Agency until the required disclosure statement is filed.
- I. If a covered person or an applicant fails to file a required transactional disclosure statement or applicant disclosure statement, the Village agency engaged in the transaction or the Village agency to which the application was made may terminate, deny, modify or vacate the transaction or approval of the application with respect to which the disclosure was required. If a transaction or application is under consideration by more than one Village agency, a decision by one agency to terminate, deny or modify the transaction or approval by one agency constitutes termination, rejection, modification or vacatur by all.
- J. If the Village Clerk-Treasurer or the Ethics Board determines that a disclosure statement does not comply with the requirements of this Chapter, the Ethics Board must inform the person who filed the disclosure statement of the reasons the disclosure statement is deficient. The person may amend the disclosure statement without penalty within 15 days of receipt of the notification or the person may, within the same 15-day period, file with the Ethics Board and the Village Clerk-Treasurer an objection to the determination, stating the reasons for the objection. Upon receiving the objection, the Ethics Board must determine and inform the covered person within 30 days whether the disclosure statement complies with the requirements of this Chapter. If the Ethics Board determines that the disclosure statement does not comply with the requirements of this chapter, the person must file an amended disclosure statement that does comply with the requirements of this chapter within 15 days of notice of the decision. The decision of the Ethics Board is final, subject to remedies available under applicable law. If the person who filed the disclosure statement is a member of a Village agency, the person is suspended, upon receipt of the notice, from participating in the activities of the Village Agency on which he or she serves. If the person who filed the disclosure statement is an applicant, the person is suspended from engaging in the transaction, until the person files a compliant disclosure statement. The Ethics Board may, for good cause shown, vacate the suspension and allow the person to participate in the

**Commented [Daniel Ka17]:** This penalty provision was worded in order to give enforceability to the Ethics Board but also to allow discretion. So many filers are volunteers, the intent is to not discourage service, among other considerations.

**Commented [DK18]:** The Ethics Board recommends "...certifies to the chair of the agency..."

activities of the Village Agency or engage in the transaction while the Ethics Board is considering the objection or the covered person is pursuing any legal remedy.

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

~~Within 90 days after the effective date of this chapter, and during the month of January each year thereafter, the Board of Trustees shall:~~

~~A. 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 § 21-5; and~~

~~B. 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 Board in existence at the time of the enactment of this chapter is dissolved established by Local Law No. 1 of 2009 is continued.**

**B. There is hereby established a Village of Mamaroneck The Ethics Board consisting consists of five members to be appointed by the Board of Trustees. The members of the Ethics Board in office when this local law becomes effective will continue in office for the balance of their respective terms. Each member of the Ethics Board thereafter will serve a term of three years, commencing on the date of the annual meeting of the Board of Trustees and until the member's successor has been appointed and qualified. No member of the Ethics Board may serve more two consecutive full terms.**

**C. Members The Board of Trustees must choose members of the Ethics Board shall must be chosen for their independence, integrity, civic commitment, and high ethical standards.**

**D. No more than two members of the Ethics Board may be enrolled in the same political party. A member of the Ethics Board who changes his or her party enrollment must inform the Ethics Board and the Board of Trustees of the change in writing within 48 hours of filing the change. If as a result of the filing of the change of party enrollment more than two members of the Ethics Board will be enrolled in the same political party, the filing of the change of party enrollment constitutes the resignation by the member from the Ethics Board on the date of the filing, unless the member revokes the change within 10 days of filing.**

**E. Restrictions on activities of Ethics Board members.**

**(1) No Ethics Board members shall must not hold office in a political party.**

**(2) No Ethics Board members shall must not be employed or act as a lobbyist by or**



**appear as part of the member's paid employment** before the Village of Mamaroneck, the Town of Harrison, the Town of Rye or the Town of Mamaroneck.

- (3) ~~No~~ Ethics Board members ~~shall~~**must not** enter into any contract with the Village of Mamaroneck, except a contract for the receipt of Village of Mamaroneck services or benefits, or ~~the~~ 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.
- (4) ~~No~~ Ethics Board members ~~shall~~**must not** hold elective office in the Village of Mamaroneck or be an appointed officers or employees of the Village of Mamaroneck.
- (5) ~~An~~ Ethics Board ~~member~~**members** may make campaign contributions but ~~may~~**must not otherwise** participate in any Village election campaign.
- (6) ~~No more than two members of the Ethics Board may 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~~**may not exceed two full terms.**

F. Ethics board members ~~shall~~**do** not receive compensation for their service but ~~shall~~**will** 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~~ Board of Trustees **must** ~~will, within 60 days, be filled~~ **fill the vacancy** for the unexpired portion of the term **within 60 days** ~~in the same manner as the original appointment.~~ Any person appointed to fill a vacancy on the Ethics Board ~~shall~~**must** meet the qualifications **for membership** 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~~**The Board of Trustees** may remove a member of the Ethics Board after notice and an opportunity to be heard for ~~removal shall be~~ failure to meet the qualifications set forth in § 21-7 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~~ **must** elect a chair for that year from among its members. A majority of **the total number of authorized members** of the Board ~~shall be~~ **is** 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~~**must** meet at least quarterly.

**§ 21-10. Ethics Board, jurisdiction, powers, and duties.**

**A.** The Ethics Board may act only with respect to ~~officers, board members and employees of the Village of Mamaroneck~~**persons and business entities covered by this chapter.**

**B.** The termination of a covered person's ~~Village of Mamaroneck officer's, board member's or employee's~~ term of office, service or employment with the Village of Mamaroneck ~~shall~~**does** 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 **of the covered person** while a **covered person** ~~Village officer or employee.~~

**C.** The Ethics Board ~~shall have~~**has** 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~~**the** Village Attorney or Village Clerk-Treasurer ~~shall be~~**are** confidential and **must not be** 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~~**designated persons**, transactional disclosure statements, applicant disclosure statements, and annual disclosure statements filed with the **Ethics Board**~~board~~ pursuant to § 21-6 ~~§§ 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, including proceedings for violations and failure to comply with Section 21 of this **chapter**;
- (6) To grant waivers pursuant to § 21-15 of this chapter;
- (7) To render, index, and maintain on file advisory opinions **of with respect to** this chapter;
- (8) ~~To provide training and education to municipal officers, board members and employees;~~
- ~~(9)~~ To prepare an annual report and recommend changes to this chapter; **and**
- ~~(10)~~ To provide for public inspection and copying of certain records.

**D.** The Ethics Board may recommend a disciplinary action or assess a penalty only if the **complaint is filed or investigation** ~~hearing, action or proceeding~~ is commenced

**Commented [Daniel Ka19]:** I have added this clause to enable the Ethics Board to initiate on its own, proceedings for failure to file Annual Disclosure Statements.

within six years of the act that is or acts that are the subject of the **complaint or investigation** ~~hearing, action or proceeding~~.

- E. The Ethics Board ~~will~~**must** comply with the requirements of the Open Meetings Law of the State of New York (Public Officers Law § 100 et seq.), even if that law does not apply because the Ethics Board is acting in an advisory capacity.

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

- A. The Village of Mamaroneck Clerk-Treasurer must ~~promptly~~**shall** transmit ~~promptly~~ to the Ethics Board each ~~transactional and/or applicant~~ disclosure statement **that has been** filed with the Clerk-Treasurer pursuant to § 21-5.

- ~~B. The Ethics Board shall and must~~ index the disclosure statements, maintain them on file for not less than six years, and make them 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~~**must** review:

- (1) The lists of ~~officers, board members and employees~~ **designated persons** prepared pursuant to § 21-10-5 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; ~~and~~
- (4) All ~~applicant~~ **application** disclosure statements.

- B. If the ~~Ethics~~ 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~~**must** notify the **covered** person **or applicant** 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~~ **is authorized and required** to conduct any investigation necessary to carry out the provisions of this chapter. All **Village** agencies ~~of the Village and all public~~ officers, board members, employees and agency members ~~shall~~**must, upon the request of the Ethics Board,** furnish to the **Ethics** 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 **Ethics** Board ~~of Ethics~~ may also request from ~~third parties such~~ **other parties** any data, information and statements as may in the ~~opinion~~ **judgment** 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~~ **must** 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~~ **must** be indexed and maintained on file by the **Ethics Board** ~~board~~.
- C. **The Ethics Board must notify the complainant** ~~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~~ **must be kept** confidential and **must not be made** 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~~ **must** be **made** 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. The Ethics Board may not investigate itself or any of its members.~~ 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~~ **Ethics Board must** promptly transmit a copy of the complaint to the ~~Village Manager~~ **Board of Trustees, which must consider the complaint, either itself or by a designee, and dispose of the complaint in accordance with the provisions of this chapter.**

§ 21-14. Hearings; assessment of penalties.

- A. Disciplinary action. In its discretion, after **affording the subject of the complaint or investigation a meaningful opportunity to be heard**, ~~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 § 21-10 of this chapter. ~~The recommendation of the Ethics Board shall be made to the appointing authority or~~ the person or body authorized by law to impose such sanctions. The Board ~~shall~~ **must** conduct and complete the hearing with reasonable promptness, unless in its discretion, the **Ethics** Board refers the matter to the authority or person or body authorized by law to **impose take** disciplinary action or ~~unless the Board refers the matter to the appropriate prosecutor, in which case~~ ~~If such a referral is made, the Ethics Board may adjourn the matter pending determination by authority, person, body, or prosecutor.~~
- B. Civil fine. In its discretion and after a hearing providing **the subject of the complaint or investigation a meaningful opportunity to be heard** ~~for due process procedural mechanisms~~, the Ethics Board, pursuant to § 21-10 of this chapter, may assess a civil fine, not to exceed \$1,500 for each violation, upon any **person or business entity** ~~Village of Mamaroneck officer, board member, employee or consultant~~ found by the

**Commented [Daniel Ka20]:** Is "meaningful" definable in statute or case law? Can this be framed in a way that expresses basic due process? Would "reasonable" conform to acceptable legal standards of definition?

Ethics Board to have violated this chapter. The Board ~~shall~~ **must** conduct and complete the hearing with reasonable promptness. The civil fine ~~shall be~~ **is** payable to the Village of Mamaroneck.

C. Damages. The **Ethics Board may recommend to the Board of Trustees that the Village of Mamaroneck may** initiate an action in the Supreme Court of the State of New York to ~~obtain~~ **recover** damages, as provided in § 21-10 of this chapter.

D. Civil forfeiture. The **Ethics Board may recommend to the Board of Trustees that 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 § 21-10 of this chapter.

E. Debarment. **The Ethics Board may recommend to the Board of Trustees that any person or business entity which violates this chapter be debarred from transacting business with the Village,** ~~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 **Ethics Board may recommend to the Board of Trustees that 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.~~

**Commented [Daniel Ka21]:** The Ad Hoc Committee recommended that the Ethics Board have discretion to refer matters to a wider breadth of jurisdiction:

Damages. The Village of Mamaroneck may initiate an action in the Supreme Court of the State of New York, or a court or body of appropriate jurisdiction, to obtain damages, as provided in § 21-11 of this chapter.

**Commented [Daniel Ka22]:** The existing statute empowers the Ethics Board, as well as the Village to initiate an action.

**Commented [Daniel Ka23]:** The existing statute empowers the Ethics Board, as well as the Village to initiate an action.

#### § 21-15. **Waivers.**

A. Upon written application by a **covered person or applicant** ~~Village of Mamaroneck officer or employee and/or if applicable, and, in the case of a Village employee, the written approval by his or her department head of the Village Manager,~~ the Ethics Board may ~~grant the applicant, or his or her private employer or business, a waiver of~~ **waive** any of the provisions of the Code of Ethics, except **sections 21-4(K)(2), 21-4(O), 21-6(C), 21-6(D), 21-6(E),** ~~prohibiting a person from inducing a violation of this chapter or appearing 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 upon finding that waiving such provision would not be in conflict with the purposes of this chapter~~

or impair and the interests of the Village of Mamaroneck, provided, however, that but no such waiver shall may permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.

- B. ~~Waivers shall be~~ **A waiver must be in writing**, shall state the grounds upon on which they are it is granted, and shall be available for public inspection and copying. All applications, decisions, and other records and proceedings relating to waivers shall be **The Ethics Board** must indexed and maintained **every waiver** on file by the Board.

§ 21-16. **Advisory opinions.**

- A. ~~Upon thea written request inquiry of any Village of Mamaroneck officer, board member or employee, or of his or her department head, the Ethics Board shall will~~ 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~~ **the inquiring party**. The Ethics Board must deliver a copy of each advisory opinion to the Village Clerk-Treasurer. **The Village Clerk-Treasurer must index the advisory opinions of the Ethics Board and maintain those opinions on file and on the Village website.**
- B. **No communication from the Ethics Board or any member of the Ethics Board regarding the meaning or intent of any provision of this chapter except a written advisory opinion by the Ethics Board has any precedential value or binding effect with respect to any determination to be made by the Ethics Board. Only a written advisory opinion by the Ethics Board given at the request of the party requesting the advisory opinion and regarding the specific facts and circumstances of the matter for which the inquiring party requested an advisory opinion has precedential or binding effect.**
- C. ~~Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board. The Board shall may publish suchthose of its advisory opinions as that it believes will provide guidance to other Village of Mamaroneck officers, board members or employees inquiring parties, provided, however, that the publicly available copy of such opinions shall contain but must make thosesuch deletions from the publicly available advisory opinion that are as may be necessary to prevent disclosure of the identity of the involved officers, board members and employees inquiring person and any other person involved.~~

§ 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 **at least six months and not more than ten months have elapsed since the request was filed:**
- (1) ~~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~~

- ~~(2) The action or special proceeding shall be commenced within 10 months after the submission of the request for the advisory opinion.~~

**§ 21-18. Training and education.**

**A. The Ethics Board must:**

- ~~(1) Shall make information publicly available as required of it in this chapter 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;~~
- ~~(2) Shall develop make recommendations to the Village Manager with respect to 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 be responsible for developing and presenting ethics educational programs assist the Ethics Board in the publication, publishing, posting, and distributing distribution of ethics educational materials with respect to article 18 of the General Municipal Law and this chapter and in the development and presentation of ethics educational programs and ensuring that each Village officer or employee receives ethics training, in the form determined by the Ethics Board, at least once each year.**

**C. The Village Manager must attach to every request for proposals or solicitation for bids a copy of the Code of Ethics or an electronic link to the Code of Ethics. Every person or business entity that is awarded a contract by the Village must confirm in writing that the person or business entity has received and understands the Code of Ethics. 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 must prepare and submit an annual report to the Board of Trustees summarizing the activities of the Ethics Board during the preceding year. The report may also recommend changes to the text or administration of the chapter.**
- B. The Ethics Board shall must 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~~ **The meetings and proceedings** of the Ethics Board ~~shall be~~ **are** open to the public, ~~except as to the extent~~ 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~~ **the approval** of the Ethics Board.

§ 21-21. **Miscellaneous provisions.**

- A.** No existing right or remedy ~~shall be~~ **is** lost, impaired, or affected by reason of this chapter.
- B.** ~~No public officer or employee shall~~ **A covered person must not induce or attempt to 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 **or aid any other person in doing so.** ~~Any person who violates~~ **A violation of** this section ~~has committed~~ **is** 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~~ **prohibits a person or business entity formerly subject to this chapter** 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~~ **does** 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~~ **may** It is a violation of this chapter to retaliate against ~~any Village officer, employee or board member or other person~~ **any other person who has**, acting in good faith for, ~~notwithstanding any other provision of this chapter, submitting~~ **submitted** a complaint to the **Ethics** Board of Ethics; ~~reporting~~ **reported** 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 providing~~ **provided** information to the Board of Ethics or to a federal, state or county regulatory or investigative authority; ~~or acting or refusing~~ **acted or refused** to act as required by this chapter and Article 18 of the General Municipal Law. No action protected by this section ~~shall be considered~~ **is** a violation of this chapter.
- B.** Any ~~Village officer, employee or board member~~ **person** who violates this section ~~has committed a violation of~~ **violated** this chapter.
- C.** In resolving a complaint that a ~~Village officer, employee or board member~~ **person** has violated this section, the Board of Ethics may, among other things, recommend that a retaliatory personnel or regulatory action be reversed.

**Commented [Daniel Ka24]:** Isn't this already covered already by 21-4 O?

Inducement of others. Any officer or employee of the Village of Mamaroneck shall not **A covered person must not** induce, threaten, or coerce or aid another ~~officer or employee of the Village~~ **covered person** to violate any of the provisions of this Code of Ethics.



*Section 2.*

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

*Section 3.*

This law is adopted pursuant to the authority granted by General Municipal Law § 806 and Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

*Section 4.*

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.