



SHELTER ISLAND BOARD OF ETHICS

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The New Shelter Island Ethics Code: A Plain English Guide

The Town Board recently adopted a new and improved Ethics Code. The purpose of this guide is to make the new Code easier to understand. It is not intended as a substitute for the actual Code. If you're a town employee (or advisor) you should be sure to read [the new Code](#) in its entirety and ask any questions you may have about how it may apply to you.

Q: Why does the Town need an ethics code?

Because it's required by state law. Town employees may find themselves in situations where their private financial interests may conflict with those of the Town, in other words, what may be best for the employee may not be best for the Town. State law prohibits certain conflicts of interest of public employees, and also calls for cities and towns to develop their own rules addressing issues not covered by state law. The goal in revising Shelter Island's Ethics Code was to bring the Town into compliance with state law and establish clear rules regarding conflicts so that the public can have more confidence in their local government and well-meaning employees can be protected from unfair or uninformed accusations.

Q: Why did the Town Board adopt a new Ethics Code?

Before the Town Board adopted a new Ethics Code in 2023, the prior Code had been in effect for 52 years. That Code didn't include some of the main requirements of state law (Chapter 18 of New York General Municipal Law) and was extremely vague and subjective. Its only function was to allow Town employees to request an opinion (from the Ethics Board) about their own situation. Those opinions had no effect; they could be ignored by the employee without any consequences. The code didn't allow other employees or members of the public to question possible conflicts-of-interest by Town employees. And because the advisory opinions were kept secret, they couldn't help other employees determine where to draw the line in their own situations.

Q: Who does the Code apply to?

All Town "officers and employees." That term includes full-time and part-time board members and

employees, as well as unpaid advisory committee members. The Code will most frequently apply to officers and employees who have “discretionary authority” over a decision, meaning a decision that requires the exercise of judgment. Examples would include contracting or purchasing decisions or issuing a permit or a waiver from the Town’s permit requirements. Non-discretionary actions are purely functionary, like issuing fishing and hunting license, beach permits, and other situations in which, as long as an applicant meets the requirements, they are entitled to the permit or license.

Q: What do I do if I’m asked to make a decision on a matter where I have a possible conflict of interest?

It's not unusual and not unethical to have a financial conflict-of-interest. In a small town like this, many government workers do, especially because their direct family members’ involvement in the issue is part of the evaluation. Most conflicts can be resolved if the employee tells their supervisor and/or the Town Board and Ethics Board in writing about the situation and then takes themselves completely out of the decision-making process. Let others decide. This is “*disclosure and recusal*” which is at the heart of the Code. In most cases employees who disclose conflicts and recuse themselves from the decision-making process are protected against accusations of impropriety.

Q: What does recusal mean in practice?

It means staying completely out of the deliberations and/or proceedings. As our code says, a town official with a financial conflict-of-interest should not be in the room (or videoconference) when the matter is being discussed or voted on, *nor* may they participate in any discussions or communications regarding it, whether by phone, conversation, e-mail or text. This includes formal or informal discussions or involvement. They should disclose as soon as they know there may be a conflict (or appearance of a conflict) and step away completely. Ethics laws allow public officials to have some conflicts of interest but only if they follow these principles. Otherwise, their choice is to give up the conflicting interests or to not be a public official. There is further guidance on this from the New York Attorney General, the New York Comptroller, and legal journals. Plus, the Shelter Island Ethics Board is here to help you clarify the lines.

Q: What does the new ethics code say?

It is nine pages long and by necessity has legal language. But in brief:

- It focuses on financial conflicts-of-interest, not just the subjective term “ethics.”
- It prohibits Employees from using their town position to gain a financial benefit for themselves or their family. In most cases “family” includes their spouse, parent, sibling, child or the spouses of those relatives. If they have discretionary authority over a decision that would result in that benefit, they must *disclose and recuse* and someone else will make the decision.
- If an employee or a member of their “family” has a financial interest in a proposed change to Town law, the employee needs to *disclose and recuse*. They cannot participate in the decision to

adopt the legislation. (There are broad common-sense exceptions to conflict-of-interest recusal for the town's annual budget or for decisions affecting all employees or all residents)

- State law and the Ethics Code impose substantial restrictions on employees involved in contracting and spending for items on which they, their spouse or their children have a financial interest. If the employee has certain powers over the contract or spending, the contract could be void (with 17 exceptions in state law). This is one area where disclosure and recusal doesn't help: **Recusal** does **not** cure a prohibited interest in a contract or Town spending.
- Employees can't acquire new investments that pose conflicts of interest after going to work for the Town. But they don't have to give up pre-existing investments that may pose conflicts. They should **disclose** those.
- Moonlighting: Town employees can take outside work, but not if that job conflicts with their official duties in some ways the code spells out.
- Cooling-off for future employment: To avoid the appearance of impropriety, prior Town employees have limits on pursuing or taking new jobs if they were using their discretionary powers as a town employee with their new employer. For instance, waiting a year to work privately for someone on an issue handled as a town employee.
- There are restrictions on political solicitations of employees.
- Employees shouldn't solicit or accept gifts that may be intended to influence them.
- Employees cannot disclose confidential information they learn in their job as a Town employee.

Q: What does the Board of Ethics do?

- **Like the prior code**, the new Code allows the Board to issue confidential "advisory opinions" to employees who request them. This allows employees who are unsure if they face a conflict to protect themselves from violations of the Code.
- **Unlike the prior code**, the new Code allows for complaints by members of the public and other town employees who believe that a town officer or employee has violated the Code. The Board will investigate a complaint and, if they find it has merit, they will refer their findings and recommendations to the Town Board for possible further action.
- The Board will make summary versions of its opinions public in order to help other employees who might face a similar situation.

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