

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of BRIARCLIFF MANOR
- Town
- Village

Local Law No. 5 of the year 20 07

A local law TO AMEND CHAPTER 27, ETHICS
(Insert Title)

Be it enacted by the BOARD OF TRUSTEES of the
(Name of Legislative Body)

- County
- City of BRIARCLIFF MANOR as follows:
- Town
- Village

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

A LOCAL LAW TO AMEND
CHAPTER 27 OF THE CODE OF
THE VILLAGE OF BRIARCLIFF
MANOR WITH RESPECT TO THE
CODE OF ETHICS

Be it enacted by the Village Board of the Village of Briarcliff Manor, as follows:

Section 1. Chapter 27 of the Village Code of the Village of Briarcliff Manor is hereby revised to read as follows:

"§ 27-1. Legislative intent.

"It is the policy of the Village of Briarcliff Manor and the purpose of this chapter to establish standards and guidelines for the ethical conduct of its officials, employees, and consultants. Though assurance of such conduct will continue to rest primarily on personal integrity and community vigilance, these standards are another step toward ensuring:

"A. The highest caliber of public administration for the Village;

"B. Government decisions are arrived at impartially and free of any conflict of interest between any private interest and a Village official, employee, or consultant's proper discharge of his or her official duties;

"C. Public confidence in Village government; and

"D. Protection of Village officials, employees, and consultants from unwarranted assaults on their integrity by separating real conflict from the inconsequential.

"§ 27-2. Definitions.

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

"ACT IN AN OFFICIAL CAPACITY — Any legislative, administrative, quasi-judicial, appointive, or discretionary act of an official, employee, or consultant of the Village.

"CONSULTANT — Any person or entity, other than a Village official or employee, who is compensated by the Village for providing advisory services to

the Village, its boards, courts, commissions, districts, departments, committees, or other agencies.

“FAMILY MEMBER — Any (i) spouse, child, parent, or sibling of a Village employee, official, or consultant, (ii) person who is financially dependent on a Village employee, official, or consultant, or (iii) person on whom a Village employee, official, or consultant is financially dependent.

“PRIVATE INTEREST — A participation, connection, or involvement of any sort which may result in a direct pecuniary or material benefit. For the purposes of this chapter, the private interests of a Village official, employee, or consultant shall be deemed to include the private interests of:

"A. A family member.

"B. Any person or entity, other than a bank, trust company, or other lending institution, with whom he or she has a substantial debtor-creditor or other financial relationship.

"C. Any person or entity by whom he or she is employed or of which he or she is an officer, director, or member.

"D. Any person or entity of which the stock or other legal or beneficial ownership is owned by the official, employee, or consultant; provided, however, that if the business dealings of such person or entity with the Village form an insubstantial part of such person or entity's total business dealings, then this definition shall only apply to such person or entity if the Village official, employee or consultant owns more than 5% of the stock or other legal or beneficial ownership of such person or entity. Regardless of the percentage of ownership, however, any such interest shall be disclosed by the official, employee or consultant in accordance with § 27-4 of this chapter.

“PERSON or ENTITY — Any individual, business proprietorship, corporation, partnership, association, venture, individual in representative or fiduciary capacity, estate, trust, or other entity.

“TRANSACTION — Any activity, application, or proceeding which requires or may require an act by an official, employee, or consultant of the Village in his or her official capacity.

“VILLAGE — The Village of Briarcliff Manor and all of its boards, courts, commissions, districts, departments, committees, and other agencies.

“VILLAGE OFFICIAL OR EMPLOYEE — Any officer or employee of the Village and any member of any of its boards, courts, commissions, districts, departments, committees, or other agencies, whether full or part-time, whether compensated or not. No person shall be deemed to be a Village official or

employee solely by reason of being a volunteer firefighter or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.

"§ 27-3. Conflict of private interest standards.

"A. No Village official, employee, or consultant shall represent or advocate any private interests (other than himself or herself) before the Village or in any transaction with the Village.

"B. No Village employee, official, or consultant shall participate in the consideration of, vote on, administer or act in an official capacity in connection with a transaction in which he or she has a private interest.

"C. No Village employee, official, or consultant shall participate in the consideration of, vote on, administer or act in an official capacity in connection with a transaction in which he or she or any family member is or has been an employee, consultant, agent, representative, official, or fiduciary of the applicant before the Village within the prior 12 months.

"D. Except as otherwise permitted by General Municipal Law Article 18, no Village official or employee shall, directly or through a person or entity of which he or she or his or her family member has any direct or indirect private interest, sell goods or services (other than through employment) to or engage in any business transaction with the Village.

"E. No Village official, employee or consultant shall engage in any business or profession or accept private employment or render any service for private interests which creates a conflict with that official, employee, or consultant's official duties. For a period of 12 months after the termination of his or her service, employment, or engagement with the Village, a former Village official, employee, or consultant shall not render services for private interests before the Village in relation to any matter with respect to which such former official, employee, or consultant personally participated in during his or her service, employment, or engagement with the Village, but this prohibition shall be personal to such former official, employee, or consultant and shall not affect the ability of his or her employer or any other person or entity with which he or she is affiliated from rendering services for private interests before the Village in relation to any such matter.

"F. No Village official, employee or consultant shall directly or indirectly (i) solicit any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form or (ii) accept any gift worth \$75.00 or more.

"G. No Village official, employee, or consultant shall permit the use of any Village property for personal convenience or profit or secure privileges or exemptions for himself or herself, or any family member, unless such activity is available to Village citizens generally or is provided as a matter of Village policy.

"H. No Village official, employee, or consultant shall either (i) use any information which he or she received in the course of his or her duties as a Village official, employee, or consultant to further the private interests of himself or herself or any other person or entity other than the Village unless that information is available to the public or (ii) disclose any information which he or she received in the course of his or her duties as a Village official, employee, or consultant unless either [a] that information is available to the public or [b] his or her disclosure of that information is in the course of his or her duties as a Village official, employee, or consultant.

"I. No official or employee shall have a private interest, directly or indirectly, in any transaction, that will (i) impair or reasonably may impair the proper discharge of his or her official duties or (ii) conflict with the proper discharge of his or her official duties.

"J. No Village official, employee, or consultant shall knowingly acquire, solicit, negotiate, or accept any private interest, employment, or other thing of value which would result in a violation of this chapter.

"§ 27-4. Disclosure of interest.

"A. Pursuant to New York General Municipal Law § 806, the Village Manager shall cause a copy of this Code of Ethics to be distributed to each official, employee, and consultant of the Village upon the adoption of this chapter and at the time of commencement of each person's service in each new capacity. Each official, employee, and consultant shall acknowledge, in writing, that he or she has received, read, and understood this Code of Ethics. Failure to distribute or receive such copy shall have no effect on the duty of compliance with such Code or on its enforcement.

"B. Any Village official, employee, or consultant who has a direct or indirect private interest in any transaction under consideration by a board, court, commission, district, department, committee or agency of the Village or in any property which may be affected by such transaction, or whose family member has such a private interest, shall publicly disclose the nature and extent of that private interest on the record of the board, court, commission, district, department, committee, or agency before which such transaction is pending and shall file a copy of such disclosure with the Village Clerk. The Village Board shall review such disclosures in a timely manner.

"C. Any applicant for a change of zoning, variance, special permit, site plan approval, subdivision, or other permission pursuant to the zoning and planning regulations of the Village shall disclose with the application the name, nature and extent of the private interest of any Village employee, official, or consultant in the application or in the applicant pursuant to New York General Municipal Law §809.

"§ 27-5. Board of Ethics.

"A. There is hereby created a Board of Ethics which shall consist of five voting members appointed by the Village Board, all of whom shall be residents of the Village and shall serve without compensation for service on the Board. One member of the Board shall be an officer or employee of the Village, but no Village Justice, Village Attorney, or member of the Village Board shall be eligible to serve on the Board. The remaining voting members shall not be Village officials or employees. The Village Manager shall serve the Board in an ex officio, non-voting capacity. The Village Manager also may serve as the Village official or employee voting member of the Board if he or she is appointed to that position by the Board of Trustees.

"B. Each member of the Board of Ethics shall be appointed for a term of 5 years, except that of the members first appointed; one shall be appointed for a term of 1 year; one for a term of 2 years; one for a term of 3 years; one for a term of 4 years; and one for a term of 5 years. The Village Board shall designate one member as Chairman of the Board of Ethics. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he or she is to succeed.

"C. The Village Attorney shall serve as counsel to the Board of Ethics except when he or she shall recuse himself or herself in any matter in which it is determined that he or she has or may appear to have a conflict of interest. In the event that the Village Attorney has withdrawn from participation in any matter pursuant to this section, the Village Board shall provide the Board of Ethics with the services of substitute counsel at the request of the Board of Ethics or at the pleasure of the Village Board.

"D. The Board of Ethics shall render advisory opinions to Village employees, officials, and consultants with respect to New York General Municipal Law Article 18 and this Code of Ethics.

1. Such an advisory opinion shall be rendered upon:

(a) The written request of any two or more members of the Village Board;

(b) The written request of a Village official, employee, or consultant whose conduct is in question; or

(c) The written request of any member of the public which is signed and sworn and alleges facts which, if true, constitute a violation of any provision of New York General Municipal Law Article 18 or of this Code of Ethics. The Board shall summarily dismiss any request by a member of the public which is not signed and sworn, or which does not allege facts which, if true, constitute a violation of any provision of New York General Municipal Law Article 18 or of this Code of Ethics.

2. Upon receipt of any such request, the Board of Ethics shall notify the Village official, employee, or consultant whose conduct is in question and provide him or her with a copy of the request in the case of a request of anyone other than himself or herself, shall seek clarification of any fact asserted or alleged, if necessary, shall prepare such an advisory opinion, and shall issue that advisory opinion to the Village official, employee, or consultant whose conduct is in question, the Village Board, and the Village Attorney. The Board shall issue its advisory opinion within 60 days of the date of its request, but the Board of Trustees may allow the Board additional time to issue its advisory opinion upon written request from the Board.

3. Such advisory opinions of the Board of Ethics shall be for the guidance of the Village official, employee, or consultant whose conduct is in question, the Village Board, and the Village Attorney, and the Board of Ethics shall keep them confidential in accordance with Section 27-8 and shall not disclose any portion of any such opinion to any person or entity other than the Village official, employee, or consultant whose conduct is in question, the Village Board, and the Village Attorney, but the Board of Ethics may disclose to the public that such an opinion has been issued, and the Board of Ethics shall disclose to any member of the public who has made a written request for an advisory opinion when that opinion has been issued. The Board of Ethics shall keep a record of its proceedings and opinions.

"E. The Board of Ethics may prescribe rules and regulations governing its own internal organization and procedures in a manner consistent with this Chapter and with New York General Municipal Law.

"F. The Board of Ethics shall have such other powers and duties as shall be conferred by the Village Board or pursuant to New York General Municipal Law Article 18.

"§ 27-6. Appropriation of funds.

"The Village Board may appropriate moneys from the general Village funds for the maintenance of and for personnel services to the Board of Ethics, but such Board of Ethics may not commit the expenditure of Village moneys except within the appropriations provided, in its discretion, by the Village Board.

"§ 27-7. Remedies; effect on other provisions.

"A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter. Nor shall the validity of any action taken by any Village official, employee, or consultant under the law in force immediately prior to the effective date of this chapter be affected by the enactment hereof.

"B. All Village officials, employees and consultants who, as a result of these revisions, are in violation of the duly adopted revised Code of Ethics are

directed to comply with all of its stipulations and requirements within 60 days of the effective date of this chapter.

"C. In the event of any conflict between any provision of this chapter and any provision of New York General Municipal Law Article 18, the more restrictive provision shall apply.

"D. The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this chapter shall not affect the validity of any part of this chapter which can be given effect without such invalid part or parts.

"§ 27-8. "Confidentiality.

"A. Subject to the requirements of Public Officers Law Article 6 regarding "Freedom of Information" and Article 7 regarding "Open Meetings," all of the Board of Ethics's proceedings, deliberations, investigations, conclusions, and opinions shall be private and confidential and shall not be disclosed to any person or entity other than the Village official, employee, or consultant whose conduct is in question, the Village Board, and the Village Attorney, except that the Board of Ethics may disclose to the public the fact that it has issued an opinion on a particular matter and shall disclose to any member of the public who has made a written request for an opinion when that opinion has been issued.

"B. Each member of the Board of Ethics shall maintain the confidentiality of the Board's proceedings, deliberations, investigations, conclusions, and opinions.

"C. Subject to any limitation found in Public Officers Law or any other law, either the Village official, employee, or consultant whose conduct is in question or the Village Board may release any Board of Ethics opinion to the public, and nothing contained in this Code of Ethics shall be construed to preclude any such disclosure by that Village official, employee, or consultant whose conduct is in question or by the Village Board.

"§ 27-9. Repealer.

"Ordinance No. 173 of the Village of Briarcliff Manor, enacted November 5, 1970, is hereby repealed in its entirety."

Section 2. Supersession. This chapter supplements and does not supersede any provision of New York General Municipal Law.

Section 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 4. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 20 07 of the (County)(City)(Town)(Village) of BRIARCLIFF MANOR was duly passed by the BOARD OF TRUSTEES on JUNE 21, 20 07, in accordance with the applicable (Name of Legislative Body) provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local (Elective Chief Executive Officer*) law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 _____, above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

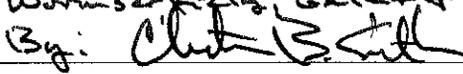
Date: 6-21-07

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Westchester

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Wormser, Kiely, Galef & Jacobs LLP
By: 
Signature
Village Attorney, Wormser, Kiely, Galef & Jacobs
Title

County _____
City of Briarcliff Manor
Town _____
Village _____

Date: 6/21/07