

**RESOLUTION NO. 07-01
BOARD OF ETHICS
BOROUGH OF DUMONT
COUNTY OF BERGEN
STATE OF NEW JERSEY**

**A RESOLUTION ESTABLISHING A CODE OF ETHICS AND FINANCIAL
DISCLOSURE REQUIREMENTS AND PROVIDING A MECHANISM FOR
ENFORCEMENT FOR THE BOROUGH OF DUMONT.**

WHEREAS, the Mayor and Council of the Borough of Dumont, County of Bergen, State of New Jersey, established a municipal Ethics Board, pursuant to Chapter 7AA of the Borough of Dumont Code;

WHEREAS, pursuant to Section 5 of Chapter 7AA of the Borough of Dumont Code, the Ethics Board has the power to adopt and enforce the provisions of a municipal code of ethics and financial disclosure requirement governing local government elected or appointed officers or employees serving the municipality and to impose penalties for the violation thereof consistent with the provisions of N.J.S.A. 40A:9-22.21 *et seq.*;

WHEREAS, the Board, in interpreting and applying the provisions of Chapter 7AA of the Borough of Dumont Code, shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officers and employees have a right to private interests of a personal, financial and economic nature; and, that standards of conduct shall distinguish between those conflicts of interest which are legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and free society;

NOW THEREFORE, BE IT RESOLVED by the Ethics Board of the Borough of Dumont, County of Bergen, State of New Jersey, that a Code of Ethics is hereby established as follows:

1.1 Adoption of Code of Ethics and Financial Disclosure Statement Filing Requirement

There is hereby established a Borough of Dumont Code of Ethics for all local government officers and employees and the Financial Disclosure Statement Filing Requirement for all local government officers and applicable employees.

1.2 Definitions

As used herein, the following terms shall be deemed to have the meanings indicated:

“Board” or “Ethics Board” - the Dumont Board of Ethics established pursuant to Chapter 7AA of the Borough of Dumont Code.

“Borough” - the Borough of Dumont.

“Business organization” – means any corporation, partnership, limited liability company, firm, enterprise, franchise, association, trust, sole proprietorship, union and/or other legal entity;

“Governing body” – means the Borough of Dumont Mayor and Council, or other commission, board or body, by whatever name it may be known, having charge of the finances of the Borough.

“Interest” - means the ownership or control of more than ten percent (10%) of the profits, assets or stock of a business organization but shall not include the control of assets in a nonprofit entity or labor union;

“Local government agency” – means any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within the Borough, and any independent local authority, including any entity created by more than one (1) municipality, which performs functions other than of a purely advisory nature, but shall not include a school board;

“Local government employee” - means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district;

“Local government officer” – means any person whether compensated or not, whether part-time or full-time (1) elected or appointed to any office of a local government agency; and/or (2) serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; and/or (3) who is a member of an independent municipal authority; and/or, (4) who is a managerial executive or confidential employee of a local government agency, as defined in section 3 of the “New Jersey Employer-Employee Relations Act,” P.L. 1941, c. 100 (C.34:13A-3), but shall not mean any employee of a school district or member of a school board;

“Member of immediate family” – means the spouse or dependent child of a local government officer or employee and/or other family member, any and/or all of whom are actually residing in the same household as the local government employee/local government officer.

“Relative” – means any of the following relations by adoption, blood or marriage: spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin.

“Substantial conflict” – means clear and significant adverse interests between two (2) or more matters so that the interests of one or more matters will be materially diminished.

1.3 Code of Ethics

Local government officers and employees of the Borough of Dumont shall comply with the following provisions:

- a. No local government officer or local government employee or relative shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest;
- b. No independent local authority shall, for a period of one (1) year next subsequent to the termination of office of a member of that authority:
 - i. Award any contract which is not publicly bid to a former member of that authority;
 - ii. Allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; and/or,
 - iii. Employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

- c. No local government officer or employee shall use or attempt to use his or her official position to secure privileges or advantages for himself or others based on his/her position as a local government officer or employee;
- d. No local government officer or employee shall act in his or her official capacity in any matter where he or she or a member of his or her family or his/her relative, or a business organization in which he or she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment;
- e. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties;
- f. No local government officer or employee, relative, or business organization in which he or she has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his or her official duties. This provision shall not

apply to the solicitation or acceptance of contributions to the campaign of a declared candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his or her official duties.

- g. No local government officer or employee shall use, or allow to be used, his or her public office or employment, to obtain information not generally available to the members of the public, which he or she receives or acquires in the course of and by reason of his or her office or employment, for the purpose of securing financial gain for himself, any relative, or any business organization with which he or she is associated;
- h. No local government officer or employee or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application and/or any other matter pending before any agency of the local government in which he or she serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities.
- i. No local government officer shall be deemed in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, professions, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;
- j. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a relative, whether directly or indirectly, in return therefore;
- k. Nothing shall prohibit any local government officer or employee, or relative, from representing himself, herself, or themselves, in negotiations or proceedings concerning his, her, or their, own particular interests.
- l. No local government officer or employee shall approve or disapprove or in any way recommend the payment of any bill, voucher or indebtedness owed or allegedly owed by the Borough in which he or she has a direct or indirect personal, pecuniary and/or private interest.
- m. No local government officer or employee shall request, use or permit the use of any public property, vehicle, equipment, labor and/or service for personal and/or

professional convenience and/or the private advantage of himself or herself or any other person. This prohibition shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such public property, vehicle, equipment, material, labor or service which: (1) it is the general practice to make available to the public at large; and (2) are provided as a matter of stated public policy for the use of officials and employees in the conduct of official business and has received formal written authorization from the appropriate local government agency, employee or officer.

1.4 Financial Disclosure Statement Filing Requirement

- a. Local government officers and applicable local government employees shall annually file a financial disclosure statement. All financial disclosure statements filed shall include the following information which shall specify, where applicable, the name and address of each source and the local government officer's job title:
 - i. Each source of income, earned or unearned, exceeding \$2,000, received by the local government officer or a relative during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or his or her relative has an interest in the business organization;
 - ii. Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the local government officer or his or her member of immediate family during the preceding calendar year;
 - iii. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the local government officer or his or her member of immediate family during the preceding calendar year;
 - iv. The name and address of all business organizations in which the local government officer or his or her member of immediate family had an interest during the preceding calendar year; and,
 - v. The address and brief description of all real property in the State in which the local government officer or his or her member of immediate family held an interest during the preceding calendar year.
- b. Pursuant to N.J.S.A. 40A:9-22.6, the New Jersey Local Finance Board prescribes a financial disclosure statement form for filing purposes and will transmit the sufficient number of copies of the forms to the Ethics Board. The Ethics Board shall make the forms available to the local government officers serving the Borough. The original

statement shall be filed with the Borough Clerk. A copy of the statement shall be filed with the Ethics Board, and a copy of the statement shall be filed with the New Jersey Local Finance Board.

- c. All financial disclosure statements filed shall be public records.

1.5 Enforcement of the Code of Ethics, Penalties and Disciplinary Action

a. Powers

This Ethics Board shall exercise all powers of enforcement conferred upon it pursuant to Chapter 7AA, Section 5 of the Borough of Dumont Code to implement the provisions of the Code of Ethics and Financial Disclosure Statement Filing Requirement and shall have the following powers:

- i. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the Dumont Borough Code of Ethics and/or Financial Disclosure Statement Filing Requirement;
- ii. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- iii. To forward to the Bergen County Prosecutor or the Attorney General or other governmental body any information concerning violations of the Dumont Borough Code of Ethics and/or compliance with the Financial Disclosure Statement Filing Requirement, which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General or by the Bergen County Prosecutor;
- iv. To render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of the Code of Ethics and/or compliance with the Financial Disclosure Statement Filing Requirement;
- v. To enforce the provisions of the Dumont Borough Code of Ethics and/or Financial Disclosure Statement Filing Requirement and to impose penalties for the violation thereof as are authorized by this Resolution; and,
- vi. To adopt rules and regulations and to take other actions as are necessary to implement the purposes of the Dumont Borough Code of Ethics and Financial Disclosure Statement Filing Requirement.

b. Advisory Opinions

A local government officer or employee may request and obtain from this Board an advisory opinion as to whether any proposed activity or conduct would in its opinion

constitute a violation of the provisions of the Dumont Borough Code of Ethics and/or compliance with the Financial Disclosure Statement Filing Requirement. Advisory opinions of the Board of Ethics shall not be made public, except when the local government officer or employee requests the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the local government officer or employee requests such disclosure.

c. Investigation

- i. The Dumont Borough Board of Ethics, upon receipt of a signed written complaint, on a form to be proscribed by the Board of Ethics, by any person alleging that the conduct of any local government officer or employee is in conflict with the provisions of the Dumont Borough Code of Ethics and/or compliance with the Financial Disclosure Statement Filing Requirement, shall acknowledge receipt of the complaint by regular mail and certified mail, return receipt requested, within thirty (30) calendar days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The Board of Ethics shall meet at its next regularly scheduled meeting after the complaint is received, but not less than ten (10) calendar days after receipt. At such meeting, the Board of Ethics shall make a determination as to whether the complaint is within its jurisdiction, or frivolous, or without any reasonable factual basis. If the Board of Ethics shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. In each case, such transmittal shall be by regular mail and certified mail, return receipt requested. The Board of Ethics shall not make the investigation public nor disclose the name of the investigated local government officer or employee and shall advise the complainant that the Board of Ethics conclusion shall remain confidential unless the local government officer or employee requests the written conclusion and his or her name be made public.
- ii. If, pursuant to the preceding Section 1.5(c)(i) of this Resolution, at least two-thirds (2/3) of the membership of the Dumont Borough Board of Ethics finds the complaint is within its jurisdiction and merits further investigation as to a possible violation of the Dumont Borough Code of Ethics and/or non-compliance with the Financial Disclosure Statement Filing Requirement, the Board of Ethics shall confidentially notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The local government officer or employee shall have the opportunity to confidentially present the Board of Ethics with any statement or information concerning the complaint that he or she wishes within twenty (20) calendar days of receipt of notification from the Board of Ethics. Said notice and accompanying documents shall be transmitted by regular mail and certified mail, return receipt requested. This further investigation shall remain confidential and the Board of Ethics shall not make the investigation public nor disclose the name of the

investigated local government officer or employee, and shall advise the complainant that the Board of Ethics conclusion shall remain confidential unless the local government officer or employee requests the written conclusion and his or her name be made public.

- iii. If, pursuant to the preceding Section 1.5(c)(ii) of this Resolution, at least two-thirds (2/3) of the membership of the Dumont Borough Board of Ethics determines that a reasonable probability exists as to whether the local government officer or employee is in conflict with the provisions of the Dumont Borough Code of Ethics and/or non-compliance with the Financial Disclosure Statement Filing Requirement, it shall conduct a closed hearing unless both parties, in writing, agree to an open hearing, concerning the possible violation(s) and any other facts and circumstances which may have come to the attention of the Board of Ethics with respect to the conduct of the local government officer or employee. The Board of Ethics shall render a decision as to whether the conduct of the officer or employee is in conflict with the provisions of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Statement Filing Requirement. A decision that the conduct of the local government officer or employee is in conflict with the provisions of the Dumont Borough Code of Ethics and/or the Financial Disclosure Statement Filing Requirement shall be made by no less than a two-thirds (2/3) vote of the full membership of the Board of Ethics. Said decision shall be transmitted to the local government officer or employee in writing by regular mail and certified mail, return receipt requested.
- iv. If the Dumont Borough Board of Ethics determines that the conduct of the local government officer or employee is in conflict with the provisions of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Statement Filing Requirement and renders a decision of guilty, it may impose any penalties that it believes appropriate within the limitations of this Resolution. Said decision shall be transmitted to all appropriate parties to the complaint in writing by regular mail and certified mail, return receipt requested.

d. Hearings

All hearings required under this Code shall be conducted in accordance with the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.), except where the Borough Code notes a contrary or different process/procedure/manner.

e. Appeals

All appeals of decisions by the Dumont Borough Board of Ethics shall be referred to the New Jersey Local Finance Board within thirty (30) calendar days of the Board of Ethics decision as rendered on the record and the imposition of penalties and disciplinary action pursuant to a decision of guilt shall be stayed pending the Local Finance Board's disposition of the appeal.

f. Penalties

- i. An *appointed* local government officer or employee whose conduct is found to be in conflict with any provision of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Filing Requirement shall be fined not less than \$100.00 nor more than \$1,000.00, which penalty may be collected in a summary proceeding pursuant to the "penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.). The Board of Ethics shall submit its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee, where applicable. The Board of Ethics may recommend to such office or agency that further disciplinary action be taken against said local government officer or employee by a vote of no less than a two-thirds (2/3) of the entire membership of the Board.
- ii. An *elected* local government officer or employee whose conduct is found to be in conflict with any provision of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Filing Requirement shall be fined not less than \$100.00 nor more than \$1,000.00, which penalty may be collected in a summary proceeding pursuant to the "penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.).

g. Disciplinary Action

- i. If the Board of Ethics finds that an *appointed* local government officer or employee's conduct is found to be in conflict with any provision of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Filing Requirement, it shall be considered by the applicable office or agency as sufficient cause to consider taking disciplinary action against the appointed local government officer or employee.
- ii. When a person who is in the *career service* is charged with violating the provisions of the Dumont Borough Code of Ethics and/or non-compliant with the Financial Disclosure Filing Requirement, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of the New Jersey Statutes and the rules promulgated pursuant thereto.

1.6 Preservation of Records

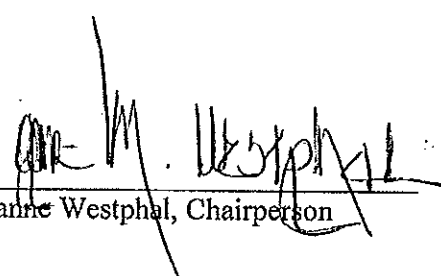
All statements, complaints, requests or other written materials, documents, audio and/or video transmissions or recordings filed pursuant to Section 1.5 herein shall be preserved for a

period of at least five (5) years from the date of filing with the Board of Ethics or preparation by the Board of Ethics, as the case may be.

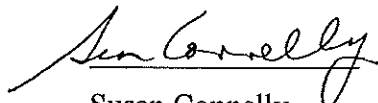
1.7 Promulgation, approval and distribution of the Code of Ethics

- a. Pursuant to N.J.S.A. 40A:9-22.21, within fifteen (15) calendar days of the promulgation of this Resolution, the Dumont Borough Board of Ethics shall cause this Resolution and the Code of Ethics contained in Section 1.2 hereinabove to be published in the official Borough newspaper and distribute it to the Borough Clerk and heads of all the local government agencies serving the Borough of Dumont for circulation among the local government officers and employees.
- b. This Board shall hold a public hearing on the Code of Ethics after the passage of thirty (30) calendar days of the promulgation of this Resolution, and in no event later than sixty (60) calendar days of promulgation. Any local government officer or employee and any member of the public wishing to be heard shall be permitted to testify.
- c. As a result of the hearing, this Board may amend or supplement the Code of Ethics contained herein as it deems necessary.
- d. Because the Code of Ethics contained herein is more restrictive than that set forth in N.J.S.A. 40A:9-22.5, and if it remains more restrictive after the public hearing referred to above, this Board shall thereafter cause to submit the Code of Ethics to the New Jersey Local Finance Board for approval, which shall approve or disapprove the Borough of Dumont Code of Ethics within sixty (60) calendar days following receipt of same. If the Local Finance Board fails to act within that period, the Borough of Dumont Code of Ethics, either as contained herein or as amended by supplemental Resolution, shall be deemed approved immediately after the sixty (60) calendar days. If the Board acts within the aforementioned sixty (60) calendar days, and approves the Borough of Dumont Code of Ethics so submitted, it shall take effect for all local government officers and employees sixty (60) calendar days after the Local Finance Board's approval.
- e. This Board shall forward a copy of the Borough of Dumont Code of Ethics, approved by the Local Finance Board, in either manner, to the Borough Clerk and shall distribute copies of same to all current and future local government officers and employees serving the Borough of Dumont.

Dated: 10/3, 2007


Joanne Westphal, Chairperson

I hereby certify that this is a true copy of a Resolution adopted by the Borough of Dumont Ethics Board, Borough of Dumont, County of Bergen, State of New Jersey at its regular meeting held on the 3rd day of October, 2007.



Susan Connelly
Board of Ethics Secretary
Acting Borough Clerk