

## **Massapequa Fire District Code of Ethics**

WHEREAS, Article 18 of the General Municipal Law prohibits the officers and employees of a fire district from having certain conflicts of interest;

WHEREAS, section 806 of the General Municipal Law, as amended by chapter 238 of the Laws of 2006, requires the governing body of each fire district to adopt a code of ethics that applies to the officers and employees of the fire district, and to the volunteer members of the fire district fire department;

WHEREAS, a code of ethics adopted by the Board of Fire Commissioners of a fire district must set forth standards of conduct for the guidance of the officers and employees of the fire district, and the volunteer members of the fire district fire department, with respect to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable,

NOW, THEREFORE, be it resolved that the Board of Fire Commissioners of the Massapequa Fire District hereby adopts a code of ethics to read as follows:

### **Code of Ethics of the Massapequa Fire District**

#### **Section 1. Purpose.**

Officers and employees of the Massapequa Fire District, and the members of the fire district fire department, hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Board of Fire Commissioners recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

#### **Section 2. Definitions.**

- (a) "Employee" means a paid employee of the fire district including, but not limited to, paid firefighters.
- (b) "Fire district" means the Massapequa Fire District.
- (c) "Interest" means a direct or indirect pecuniary or material benefit accruing to a fire district officer or employee as the result of a contract with the fire district which such officer or employee serves. For the purpose of this Code of Ethics, a fire district officer or employee shall be deemed to have an interest in the contract of (A) a spouse, minor child or dependent, except a contract of employment with the fire district which such officer or employee serves, (B) a firm partnership or association of which such officer or employee

is a member or employee, (C) a corporation of which such officer or employee is a officer, director or employee, and (D) a corporation of which any stock is owned or controlled directly or indirectly by such officer or employee. For an interest to create a conflict for an officer, employee or member of the fire department it must violate the following statutory provision :”(1) *no Fire District officer or employee shall have an interest in any contract with the Fire District of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the Fire District of which he is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any Fire District officer or employee in one or more positions of public employment, the holding of which is not prohibited by law. (General Municipal Law Section 801).[“Fire District” substituted for “municipality” and “municipal” for the purposes of this Code].*” In accordance with statute the exceptions provided for under Section 802 of the General Municipal Law shall apply to this code.

(d) “Member of the fire district fire department” or “fire department member” means a volunteer member of the fire district fire department. The official powers and duties of a fire department member refers to the individual’s powers and duties under laws, under rules or regulations adopted by the Board of Fire Commissioners, or under policies or procedures of the Board of Fire Commissioners or the chief of the fire district fire department. Members of the fire district fire department may enter into contracts with the fire district individually or as officers, partners, shareholders or employees of a business entity as long as they disclose their involvement with the contracting party in the manner specified in Section 6 below, and are not engaging in a violation of Sections 801 or 802 of the General Municipal Law (see definition of “interest” stated above).

(e) “Officer” means a person serving as a paid or volunteer officer of the fire district including, but not limited to, the members of the Board of Fire Commissioners, treasurer, deputy treasurer, secretary, director of purchasing, and the chief and assistant chiefs of the fire district fire department.

### **Section 3. Applicability.**

This code of ethics applies to the officers and employees of the fire district, and to the members of the fire district fire department. The provisions of this code of ethics shall apply in addition to all laws, including Article 18 of the General Municipal Law, all rules and regulations of the Board of Fire Commissioners, and all policies and procedures of the Board of Fire Commissioners.

#### **Section 4. Appearance of impropriety.**

All officers or employees of the fire district, and all members of the fire district fire department shall do their best to avoid even an appearance of impropriety with reference to fire district, fire department and fire company operations and with reference to the performance of their duties. They shall conduct their affairs with the best interests of the fire district, fire department and fire company as a paramount concern.

#### **Section 5. Use of position for personal or private gain.**

(a) No officer or employee of the fire district, and no member of the fire district fire department, may use his or her position to secure unwarranted personal or private gain for himself or herself, or for any other person or any organization in violation of this code. Unwarranted personal or private gain does not include any payment, benefit or opportunity that is available to any of the following groups of people or under the following circumstance:

- (1) all of the officers, employees or members of the fire district fire department;
- (2) all of the members of a fire district fire company;
- (3) all of the eligible residents of the fire district or a duly established zone of the fire district;
- (4) the general public; or
- (5) any transaction not in violation of this code.

(b) No officer or employee of the fire district, and no member of the fire district fire department, may use or permit the use of fire district resources for personal or private purposes unless such use has been authorized by a district policy or procedure as a benefit given to volunteer and/ or paid personnel. Fire district resources include, but are not limited to, use of fire district personnel, or use of the fire district's money, vehicles, equipment, materials, supplies or other property. The Board of Fire Commissioners reserves the authority to adopt policies and procedures permitting use of equipment and property by personnel, and will consider the best interests of the fire district when adopting such policies. Issues such as recruitment and retention of personnel, morale of the fire department and fire district, and the needs of the fire district, fire department and fire company shall be considered in adopting such policies. Written policies and procedures already in place on this topic at the time of the adoption of this code shall continue in full force and effect unless specifically amended or rescinded.

(c) All officers and employees of the fire district, and all members of the fire district fire department, shall follow the travel expense reimbursement policy adopted by the Board of Fire Commissioners of this fire district when they incur expenses for previously authorized transportation, meals or lodging in connection with official travel.

(d) This section does not prohibit an officer, employee or fire department member from:

- (1) responding to a fire or other emergency;
- (2) voting to approve the fire district's annual budget;
- (3) authorizing or receiving lawful compensation for services as an officer or employee of the fire district;
- (4) authorizing or receiving lawful payment or reimbursement for actual and reasonably necessary expenses incurred by an officer, employee or fire department member in the performance of his or her official duty;
- (5) authorizing or receiving lawful benefits as a fire department member including, but not limited to, service awards, group life insurance, and benefits under the Volunteer Firefighters Benefit Law;
- (6) authorizing or receiving payments under a lawful fire district contract;
- (7) using fire district personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law; or
- (8) performing a mandatory function that does not require the exercise of discretion.

#### **Section 6. Disclosure of interest in legislation.**

(a) Every officer and employee of the fire district, and every member of the fire district fire department, must disclose the nature of any interest, in any matter coming before the Board of Fire Commissioners for action. Disclosure is warranted when the officer, employee or fire department member (or his or her spouse or dependant child) has an interest in a matter that comes before the Board.

(b) For purposes of this section, a "matter coming before the Board of Fire Commissioners for action" means a motion, resolution or any other issue or question requiring a vote of the board.

(c) The disclosure required by this section must be in writing and must be made publicly to the Board of Fire Commissioners and recorded in its minutes. The Board of Fire Commissioners must cause the disclosure to be included in the minutes of the meeting at which the disclosure is made.

(d) Disclosure is not required with respect to interests in the following actions by the Board of Fire Commissioners:

- (1) adoption of the fire district's annual budget;
- (2) authorization of lawful compensation for services as an officer or employee of the fire district;
- (3) authorization of lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee or fire department member in the performance of his or her official duty; or
- (4) authorization of lawful benefits to the members of the fire department including, but not limited to, service awards, group life insurance, and benefits under the Volunteer Firefighters Benefit Law.

#### **Section 7. Recusal and abstention.**

(a) Except as otherwise required by law, no officer or employee of the fire district, and no member of the fire district fire department, may vote on any matter, or exercise or perform any other official powers or duties in connection with, any matter, when any of the following people have an interest in the matter:

- (1) the officer, employee or fire department member;
- (2) a spouse or dependant child of the officer, employee or fire department member

(b) In the event that subdivision (a) of this section prohibits an officer, employee or fire department member from exercising or performing his or her official powers or duties:

(1) if the officer has a deputy who is not prohibited by subdivision (a) from exercising or performing the power or duty, the deputy shall exercise or perform the power or duty; or

(2) in all other cases, the officer, employee or fire department member must refer the matter to his or her immediate supervisor or, if the person does not have an immediate supervisor, the officer, employee or fire department member must refer the matter to the Board of Fire Commissioners.

(c) When a matter is referred to a person's immediate supervisor or to the Board of Fire Commissioners pursuant to subdivision (b) of this section, the power or duty shall be exercised or performed by the immediate supervisor or the Board of Fire Commissioners, or the immediate supervisor or Board of Fire Commissioners may delegate the power or duty to one or more persons who are authorized to perform the function and not prohibited from doing so by subdivision (a) of this section.

(d) This section does not prohibit an officer, employee or fire department member from performing a mandatory function that does not require the exercise of discretion.

(e) With regard to disciplinary matters that are not monetary in nature or to which the definition of interest herein would not apply and involve a possible conflict of interest for the officer, employee or fire department member authorized to perform duties within the disciplinary process, the decision on whether or not recuse oneself from participating in such process shall be a personal determination to be made by the officer, employee or fire department member. In such case the officer, employee or fire department member may seek the counsel and advice of district counsel.

#### **Section 8. Holding of investments in conflict with official duties.**

(a) No officer or employee of the fire district may hold investments that would violate Article 18 of the General Municipal Law given the office or position held.

(b) This section does not prohibit an officer or employee from owning any of the following assets:

(1) real property located within the fire district or any other area served by the fire district fire department and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the fire district and acquired more than one year after the date on which the bonds or notes were originally issued.

#### **Section 9. Private employment in conflict with official duties.**

(a) No officer or employee of the fire district may accept employment or engage in any business or professional activity which:

(1) impairs the person's independence of judgment in the exercise or performance of his or her official powers and duties;

(2) is likely to require disclosure of confidential information gained by reason of serving as an officer, employee or fire department member; or

(3) requires representation of a person or organization other than the fire district in connection with litigation, negotiations or any other matter to which the fire district is a party.

(b) No officer or employee of the fire district may:

(1) represent another person or organization before the board of fire commissioners or any other body or officer of the fire district unless provided for under the district, department or company bylaws, rules or regulations;

(2) render services to another person or organization in relation to any matter which must come before the board of fire commissioners or any other body or officer of the fire district; or

(3) render services to another person or organization in relation to any matter which is pending before the board of fire commissioners or any other body or officer of the fire district.

(c) This section does not prohibit an officer or employee from:

(1) representing him or herself, or his or her spouse or minor children before the board of fire commissioners or any other body or officer of the fire district;

(2) asserting a claim against the fire district on his or her own behalf, or on behalf of his or her spouse or minor children; or

(3) performing services pursuant to a lawful and duly authorized contract with the fire district, provided, that if the consideration payable under the contract exceeds \$1,000, the contract was awarded in accordance with the procurement and purchasing policy of the fire district adopted in accordance with Section 104-b of the General Municipal Law or in accordance with competitive bidding requirements if specifically required by statute.

(4) in the case of a member of the fire district fire department nothing contained herein shall restrict the right of a member to hold any interest in a commercial concern or business or to hold a position of employment with any firm regardless of whether or not the firm engages in business with the fire district as long as the member complies with the disclosure requirements of Section 6 herein and meets the parameters stated in Sections 801 and 802 of the General Municipal Law.

#### **Section 10. Future employment.**

(a) No officer or employee of the fire district, for the sixty-day period after serving as such officer or employee may:

(1) represent another person or organization before the board of fire commissioners or any other body or officer of the fire district;

(2) render services to another person or organization in connection with any matter which must come before the board of fire commissioners or any other body or officer of the fire district; or

(3) render services to another person or organization in connection with any matter which is pending before the board of fire commissioners or any other body or officer of the fire district.

(b) No officer or employee of the fire district at any time after serving as such officer or, employee, may appear, practice or render services to another person or organization in connection with any particular matter in which he or she personally participated while serving as an officer, employee or fire department member.

(c) This section does not prohibit an officer or employee from:

(1) representing him or herself, or his or her spouse or minor children before the board of fire commissioners or any other body or officer of the fire district;

(2) asserting a claim against the fire district on his or her own behalf, or on behalf of his or her spouse or minor children; or

(3) performing services pursuant to a lawful and duly authorized contract with the fire district, provided, that if the consideration payable under the contract exceeds \$1,000, the contract was awarded in accordance with the procurement and purchasing policy of the fire district adopted in accordance with Section 104-b of the General Municipal Law or in accordance with competitive bidding requirements if specifically required by statute.

(4) performing services as a member of the fire district fire department, any fire company thereof, and/ or the exempt benevolent association existing and operating within the fire district.

(5) accepting future employment that does not specifically violate Article 18 of the General Municipal Law.

## **Section 11. Confidential Information.**

No officer or employee of the fire district, and no member of the fire district fire department, who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose such information unless the disclosure is required in the course of exercising or performing his or her official powers and duties.

## **Section 12. Gifts.**

(a) No Fire District officer or employee shall:

(i) directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five (\$75.00) dollars or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under



circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

(ii) This section does not prohibit:

(1) gifts made to the fire district;

(2) fund raising activities authorized by and pursuant to section 204-a of the General Municipal Law;

(3) gifts from a person with a family or personal relationship with the officer, employee or fire department member when the circumstances make it clear that it is that personal relationship, rather than the recipient's status as an officer, employee or fire department member, that is the primary motivating factor for the gift;

(4) gifts which are modest, reasonable and customary, given on special occasions, such as marriage, illness, or retirement;

(5) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(6) awards and plaques having a nominal value which are publicly presented in recognition of service as an officer, employee or fire department member, or other service to the community; or

(7) payments of rewards authorized by law.

### **Section 13. Board of Ethics.**

(a) At this time the Board will not establish a separate Board of Ethics in conjunction with this code. It will consider activity on ethical issues and determine if the volume activity justifies the creation of a separate ethics board.

### **Section 14. Posting and distribution.**

(a) The Board of Fire Commissioners will promptly cause a copy of this code of ethics, and any future amendment to this code of ethics, to be posted publicly and conspicuously in each building under the fire district's control. The code of ethics must be posted within ten days following the date on which the code takes effect. An amendment to the code of ethics must be posted within ten days following the date on which the amendment takes effect.

(b) The Chairman of the Board of Fire Commissioners must promptly cause a copy of this code of ethics, including any amendments to the code, to be distributed to every

person who is or becomes an officer and employee of the fire district, or a member of the fire district fire department.

(c) The failure to post this code of ethics or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of an officer, employee or fire department member to receive a copy of this code of ethics or an amendment to the code, does not affect either the applicability or enforceability of the code or amendment to the code.

#### **Section 15. Enforcement.**

Any officer, employee or member who violates this code of ethics may be fined, suspended or removed from office, employment or membership in the fire department in the manner provided by law. A violation of this code is deemed “misconduct” within the meaning of section 209-1 of the General Municipal Law.

#### **Section 16. Effective date.**

This code of ethics takes effect on the first day of June, two thousand seven.

The adoption of the foregoing code was duly put to a vote and upon roll call the vote was as follows:

Chairman	Michael Hanna	)
Vice Chairman	Denis Molloy	)
Commissioner	Thomas McCarthy	) AYES
Commissioner	Michael Mazzola	)
Commissioner	Sheldon Moskowitz	)

The resolution was thereupon duly adopted.

Dated:           Massapequa, New York  
                  May 21, 2007