

*Town of Canton, New York*  
*Local Law \_\_\_\_\_ of the year 2020*

**CODE OF ETHICS**

Be it enacted by the Town Board of the Town of Canton, New York, that by this Local Law, the provisions of Chapter 4 ("*ETHICS, CODE OF*") of the Canton Town Code are hereby amended, as follows:

- I. Sections 4-1 through 4-12 of Chapter 4 are repealed, and shall be replaced by the new sections hereafter stated.
- II. The following provisions are hereby adopted, which shall comprise Chapter 4 of the Canton Town Code, under the title "*CODE OF ETHICS – Town of Canton, New York*".

**CODE OF ETHICS**  
*Town of Canton, New York*

**ARTICLE I**  
**Intent**

*§4-1            Legislative Intent*

*WHEREAS*, Article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest, and

*WHEREAS*, Section 806 of the General Municipal Law requires the governing body of each county, city, town, village, school district and fire district to adopt a code of ethics that sets forth for the guidance of its officers and employees standards of conduct reasonably expected of them, and also authorizes the governing body of any other municipality to adopt such a code of ethics, and

*WHEREAS*, a code of ethics adopted by the governing body of a municipality shall set forth standards of conduct for the guidance of the officers and employees of the municipality 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*, the Town of Canton, New York hereby adopts a code of ethics as herein set forth.

*§4-2            Purpose*

Officers and employees of the Town of Canton, New York, 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 Town of Canton, New York finds 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.

§4-3      Applicability

This Code of Ethics applies to the officers and employees of the Town of Canton, New York, and shall supersede any prior municipal Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the Town of Canton, New York.

**ARTICLE II**  
**Code**

§4-4      Definitions

- A. “*BOARD*” means the governing board of a municipality and any municipal administrative board (e.g., *planning board, zoning board of appeals*), commission, or other agency or body comprised of two or more municipal officers or employees.
- B. “*CODE*” means this Code of Ethics.
- C. “*INTEREST*” means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when they or their spouse/partner or a member of their household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock.
- D. “*MUNICIPALITY*” means the Town of Canton, New York. The word “*municipal*” refers to the municipality.
- E. “*MUNICIPAL OFFICER OR EMPLOYEE*” means a paid or unpaid officer or employee of the Town of Canton, New York, including, but not limited to, the members of any municipal board.
- F. “*RELATIVE*” means a spouse/partner, parent, grandparent, step-parent, sibling, step-sibling, sibling’s spouse/partner, child, grandchild, child’s spouse/partner, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse/partner of the officer or employee.

§4-5      Prohibition on use of municipal position for personal or private gain

No municipal officer or employee shall use their municipal position or official powers and duties to secure a financial or material benefit for them, a relative, or any private organization in which they are deemed to have an interest.

§4-6      Disclosure of interest in legislation and other matters

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to them, a relative, or any private organization in which they are deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee, or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§4-7      Annual disclosure

- A. The following classes of officers and employees of the Town of Canton, New York, shall be required to file a signed Annual Disclosure Statement:
  - 1. Elected and appointed officials, including members of boards, commissions and public authorities of the government; and
  - 2. Employees who hold policymaking positions; an employee shall be considered to hold a policymaking position if they meet the following criteria, based either on the powers and duties of the position held as set forth in the job description or any applicable law or regulation, or based on the actual duties performed by the employee:
    - a. They have been determined to be managerial pursuant to Civil Service Law §201(7) because they formulate policy; or
    - b. They are in the non-competitive class under §2.2 of the rules and regulations of the New York State Department of Civil Service, provided that the employee holds a position that is designated in any applicable rules and regulations promulgated by the County Civil Service Commission pursuant to Civil Service Law §20, on the basis that the position requires the performance of functions influencing policy; or
    - c. They exercise responsibilities of a broad scope in the formulation of plans for the implementation of goals or policy for Town or act as an advisor to an individual in such a position, and
  - 3. Officers and employees having discretionary authority with respect to:

- a. Contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses; or
  - b. The purchase, sale, rental, or lease of real property, personal property, or services, or a contract therefore; or
  - c. The obtaining of grants of money or loans; or
  - d. Inspections; or
  - e. The adoption or repeal of any rule or regulation having the force and effect of law.
- B. Annual disclosure statements, in form approved by and as may be amended from time to time by the Town Board, shall be completed and filed with the Town Clerk; the Clerk shall make statements available to the Board of Ethics. Disclosure statements must be filed:
1. Within 30 days of taking office, or
  2. No later than the 31<sup>st</sup> of January each calendar year thereafter, and
  3. Within 30 days after any change in the information contained in the most recently filed statement.

§4-8 Recusal and abstention

- A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when they know or have reason to know that the action could confer a direct or indirect financial or material benefit on them, a relative, or any private organization in which they are deemed to have an interest.
- B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:
1. If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
  2. If the power or duty is vested in a municipal officer individually, then the power or duty shall be exercised or performed by their deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
  3. If the power or duty is vested in a municipal employee, they must refer the matter to their immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§4-9

Prohibition inapplicable; disclosure, recusal and abstention not required

- A. This code's prohibition on use of a municipal position (§4-5), disclosure requirements (§4-6 and §4-7), and requirements relating to recusal and abstention (§4-8), shall not apply with respect to the following matters:
1. Adoption of the municipality's annual budget;
  2. Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
    - a. All municipal officers or employees;
    - b. All residents or taxpayers of the municipality or an area of the municipality; or
    - c. The general public; or
  3. Any matter that does not require the exercise of discretion.
- B. Recusal and abstention shall not be required with respect to any matter that:
1. Comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by Section 7 of this code;
  2. Comes before a municipal officer when the officer would be prohibited from acting by §4-8 of this code and the matter cannot be lawfully delegated to another person.

§4-10

Investments in conflict with official duties

- A. No municipal officer or employee may acquire the following investments:
1. Investments that can be reasonably expected to require more than sporadic recusal and abstention under Section 8 of this code; or
  2. Investments that would otherwise impair the person's independence of judgment in the exercise or performance of their official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
1. Real property located within the municipality;
  2. Less than 5% of the stock of a publicly traded corporation; or
  3. Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§4-11 *Private employment in conflict with official duties*

- A. No municipal officer or employee, during their tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:
1. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to §4-8 of this code;
  2. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
  3. Violates Section 805-a (1)(c) or (d) of the General Municipal Law <sup>1</sup>; or
  4. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

§4-12 *Future employment*

- A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which they serve.
- C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which they personally and substantially participated while serving as a

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<sup>1</sup> *General Municipal Law §805-a(1): No municipal officer or employee shall ...*

- c. *receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee; or*
- d. *receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.*

municipal officer or employee.

§4-13 Personal representations and claims permitted

- A. This code shall not be construed as prohibiting a municipal officer or employee from:
1. Representing themselves or their spouse/partner or minor children before the municipality; or
  2. Asserting a claim against the municipality on their own behalf, or on behalf of their spouse/partner or minor children.

§4-14 Use of municipal resources

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel and the municipality's money, vehicles, equipment, materials, supplies or other property.
- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
1. Any use of municipal resources authorized by law or municipal policy;
  2. The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of their compensation; or
  3. The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than the established per diem for transportation, meals or lodging in connection with official travel, without prior approval.

§4-15 Interests in contracts

- A. No municipal officer or employee may have an interest in a contract that is prohibited by Section 801 of the General Municipal Law.
- B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by Section 803 of the General Municipal Law.

§4-16 Nepotism

- A. Except as otherwise required by law:

1. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.
2. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§4-17 Political solicitations

- A. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value (*e.g., petition signatures, etc.*).
- B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§4-18 Confidential information

No municipal officer or employee who acquires confidential information in the course of exercising or performing their official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing their official powers and duties.

§4-19 Gifts

- A. No municipal officer or employee shall solicit, accept or receive a gift in violation of Section 805-a(1)(a) of the General Municipal Law as interpreted in this section.
- B. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed the value of \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the 12-month period preceding the receipt of the most recent gift.
- C. No municipal officer or employee may directly or indirectly solicit any gift.
- D. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of \$75 or more when:
  1. The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of their official powers or duties.

2. The gift could reasonably be expected to influence the officer or employee in the exercise or performance of their official powers or duties.
  - a. A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of their official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
3. The gift is intended as a reward for any official action on the part of the officer or employee.
  - a. A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.

E. This section does not prohibit any other gift, including:

1. Gifts made to the municipality;
3. Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
3. Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
4. Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
5. Awards and plaques having a value of \$75 or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or
6. Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

### **ARTICLE III**

#### **Board of Ethics**

§4-20      Board of Ethics

- A. There is hereby established a Board of Ethics for the Town and Village of Canton, New York.

1. The Board of Ethics shall consist of five members, none of whom is otherwise an elected or appointed officer or employee of either municipality.
  2. The members of the Board of Ethics shall be appointed by the Village and Town of Canton, New York, as follows: two appointments by the Village, two appointments by the Town, one appointment that is mutually agreed upon by both municipal Boards.
  3. Members of the Board of Ethics will fill two-year terms. The initial appointment following adoption of this code will be for one- and two-year terms to allow for staggered succession.
  4. Members of the Board of Ethics serve at the pleasure of the appointing authorities, and receive no salary or compensation for their services as members of the Board of Ethics.
- B. The Board of Ethics shall render advisory opinions to the officers and employees of the Village and Town of Canton, New York, with respect to Article 18 of the General Municipal Law and this code.
1. Advisory opinions shall be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board of Ethics may prescribe.
  2. The Board of Ethics shall have the advice of legal counsel for the Town of Canton, New York and the Village of Canton, New York.
  3. The Board of Ethics may make recommendations with respect to the drafting and adoption of a code of ethics, or amendments thereto, upon the request of the Village and Town of Canton, New York.

#### **ARTICLE IV Administration**

*§4-21      Posting and distribution*

- A. The Town Clerk shall promptly post a copy of this code, and a copy of any amendment to this code, publicly and conspicuously in each building under the municipality's control. The code shall be posted within ten days following the date on which the code takes effect. An amendment to the code shall be posted within ten days following the date on which the amendment takes effect.

- B. The Town Clerk shall promptly distribute a copy of this code, including any amendments to the code, to every person who is or becomes an officer and employee of the Town of Canton, New York.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments shall be filed with the Town Clerk, who shall maintain such acknowledgments as a public record.
- D. The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

§4-22      Enforcement

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

- III. This Local Law shall be effective immediately upon its filing with the Office of the New York Secretary of State.