

**Town of Milton
Draft Code of Ethics**

**Presented to the Milton Town Board
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Town of Milton Ethics Review Committee:

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TOWN OF MILTON CODE OF ETHICS

SECTION 1. TITLE.

This Local Law shall be known as the “Code of Ethics of the Town of Milton”

SECTION 2. PURPOSES AND APPLICABILITY.

A. Purposes:

The proper operation of a town government requires that its officers and employees be independent, impartial, and accountable to the people: that government decisions and policy be made in the proper channels of the governmental structure; that the public office not be used for personal gain; that the public officers and employees observe in their official acts the highest standards of ethics and discharge faithfully the duties of their public office regardless of personal consideration. All officers and employees shall conduct themselves in a professional and respectable manner towards the public and one another. Realizing what is legal is not necessarily ethical; it is the policy of the Town of Milton and the purpose of this chapter to establish standards and guidelines for the ethical conduct of officers and employees. Though assurance of such conduct will continue to rest primarily on personal integrity and community vigilance, the establishment of standards is another step toward providing the highest caliber of public administration for the town and ensuring that government decisions are arrived at impartially and free of conflict of interest; thereby increasing confidence in public officials. It is also the purpose of this chapter to protect officials and employees from unwarranted accusations that impugn their integrity by distinguishing material conflicts of interest from those that are inconsequential, recognizing that for local government to attract and hold competent and professional public servants, public service must not require a complete divesting of all proprietary interests. In recognition of these goals, there is hereby established a code of ethics for all officers and employees of the Town of Milton. In the event of any conflict or inconsistency between the provisions of this code and the provisions of Article 18 of the General Municipal Law, this code shall prevail, except that nothing in this code shall authorize conduct otherwise prohibited by Article 18 of the General Municipal Law.

B. Applicability.

This Code of Ethics is enacted pursuant to §806 of the General Municipal Law and §10 of the Municipal Home Rule Law. Officers and employees of the town must comply with the provisions of the Code of Ethics, as well as the conflict of interest standards prescribed by Article 18 of the General Municipal Law. This Code of Ethics is in addition to the standards contained in Article 18, and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.

SECTION 3. DEFINITIONS.

- (a) “Employee” means any person that receives a salary or wage from the Town of Milton.
- (b) “Family member” means a parent, step-parent, sibling, step-sibling, spouse, child, step-child, grandparent, household member, or domestic partner of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.
- (c) “Interest” means a direct or indirect monetary, 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 matter involving: (i) any firm, partnership, association of which he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer or employee, and (ii) any corporation of which any such person is a director, officer or employee, or directly or indirectly owns or controls more than 5% of the corporation’s outstanding stock.
- (d) “Municipality” means Town of Milton. The word “municipal” refers to the municipality.
- (e) “Municipal officer or employee” means an officer or employee of the Town of Milton.
- (f) “Officer” means a person serving as a paid or unpaid official of the Town of Milton including, but not limited to, elected officers, members of the municipality’s governing board, any of its administrative boards (e.g. planning board, zoning of board of appeals), commissions, committees, agencies, department heads and others who work in a similar like capacity.

SECTION 4. ACTING IN THE PUBLIC INTEREST; APPEARANCE OF IMPROPRIETY.

No municipal officer or employee shall exercise or perform his or her official powers and duties on the basis of family or private business, nor create an appearance of impropriety by giving the impression that he or she will exercise or perform his or her official powers or duties on the basis of any consideration other than the best interests of the municipality.

SECTION 5. USE OF POSITION FOR PERSONAL OR PRIVATE GAIN.

- (a) No municipal officer or employee may use his or her position to secure personal or private gain for himself or herself, or for any other person or any organization. Personal or private gain does not include payment, benefit or opportunity that is customarily and legally provided to any of the following groups of people or a lawful class of such groups:
 - (1) all municipal officers or employees;
 - (2) all residents or taxpayers of the municipality or an area of the municipality; or
 - (3) the general public.

(b) No municipal officer or employee shall cause the municipality to expend more money and or town resources than is reasonably necessary for transportation, meals or lodging in connection with official travel.

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

- (1) voting to approve the municipality's annual budget;
- (2) receiving lawful compensation for services as a municipal officer or employee;
- (3) receiving payment or reimbursement for actual and necessary expenses reasonably incurred in the performance of official duty;
- (4) receiving payments under a lawful municipal contract;
- (5) using municipal personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law; or
- (6) performing a ministerial function that does not require the exercise of discretion.

SECTION 6. TREATMENT OF THE PUBLIC.

An officer or employee of the Town of Milton shall treat all members of the public, whether a person, firm or corporation, or other organization without special advantage in carrying out his or her official duties.

SECTION 7. DISCLOSURE OF INTEREST IN LEGISLATION AND OTHER MATTERS. (*)

(a) Except as otherwise provided by this section, every municipal officer and employee shall disclose the nature of his or her interest that is known or should be known to him or her, or the interest of a family member known or should be known to him or her, in any matter coming before the Town of Milton or any officer, administrative board, commission or other agency of the municipality. This section shall not apply to ministerial matters.

(b) For purposes of this section, a "matter coming before" an officer or employee of the municipality means any decision, issue or question requiring the exercise of discretion by the individual officer or employee. A "matter coming before" the Town of Milton, or any administrative board, commission or other agency of the municipality means a local law, ordinance, resolution, motion or any other decision, issue or question requiring a vote of a body of municipal officers.

(c) The disclosure required by this section shall be made when the municipal officer or employee first acquires knowledge of the interest requiring disclosure. The disclosure shall be made in writing to the town clerk and to the municipal officer or employee, administrative board, commission or other agency having the power or duty to act in relation to the matter in which the municipal officer or employee or family member has the interest.

SECTION 8. HOLDING OF INVESTMENTS IN CONFLICT WITH OFFICIAL DUTIES. (*)

(a) No municipal officer or employee may have or acquire the following investments:

- (1) personal investments that will be directly affected by the exercise or performance of the person's official powers and duties; or
- (2) personal investments that would otherwise impair a reasonable person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does **not** prohibit a municipal officer or employee from acquiring any of the following assets:

- (1) real property located within the municipality;
- (2) 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.

SECTION 9. PRIVATE EMPLOYMENT IN CONFLICT WITH OFFICIAL DUTIES. (*)

(a) No municipal officer or employee 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 or use of confidential information gained by reason of serving as a municipal officer or employee; or
- (3) 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.

(b) No municipal officer or employee may in a private capacity:

- (1) represent another person or organization before the Town of Milton, or any officer, administrative board, commission or other agency of the municipality;

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

- (1) representing him or herself, or his or her spouse or minor children before the Town of Milton, or any officer, administrative board, commission or other agency of the municipality, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity;
- (2) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children in connection with any personal matter that does not arise from or involve a business, commercial or professional activity.

SECTION 10. FUTURE EMPLOYMENT. (*)

(a) For a period of one (1) year after leaving Town service, a former officer or employee shall not communicate with his or her former municipal agency, except on his or her own behalf, and shall never accept anything of value to work on any particular matter that he or she personally and substantially worked on while in town service.

(b) This section does **not** prohibit a municipal officer or employee from:

- (1) representing him or herself, or his or her spouse or minor children before the Town of Milton, or any officer, administrative board, commission or other agency of the municipality, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity;
- (2) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children in connection with any personal matter that does not arise from or involve a business, commercial or professional activity.
- (3) This section shall not apply to representation or services before the Town of Milton Justice Courts.

SECTION 11. RECUSAL AND ABSTENTION.

(a) Except as otherwise required by law or as provided by this section, no municipal officer or employee may participate in the discussion or vote on any matter, or exercise or perform any other official powers or duties in connection with any matter, when he or she has an interest in the matter and knows or should know that a family member has an interest in the matter.

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

- (1) if the person is an officer serving as a member of a body of municipal officers, the power or duty shall be exercised or performed by the other members of the body who are not prohibited by subdivision (a) from exercising or performing the power or duty;
- (2) if the person is an officer, and does not serve as a member of a body of municipal officers, and 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
- (3) if the person is an employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty that is not prohibited from doing so by subdivision (a) of this section.

SECTION 12. INTERESTS IN CONTRACTS.

- (a) No municipal officer or employee may have an interest in a contract that is prohibited by §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 §803 of the General Municipal Law.

SECTION 13. USE OF MUNICIPAL PROPERTY.

No officer or employee of the Town of Milton may request or permit the use of town-owned vehicles, equipment, materials, resources or property for a non-Town purpose, except when such use:

1. Is available to the public generally and on the same terms as a member of the public, or
2. Is provided as written town policy for the use of the officer or employee in the conduct of official duties.

SECTION 14. NEPOTISM.

- (a) No municipal officer or employee may participate in any decision whether to appoint, hire, promote, discipline or discharge a family member from any position at, for or within the Town of Milton or an administrative board, commission or other agency of the municipality.
- (b) No municipal officer or employee may directly supervise a family member in the performance of the family member's official powers or duties.

SECTION 15. POLITICAL SOLICITATIONS.

- (a) No municipal officer or employee shall directly or indirectly use his or her official authority to compel or induce another municipal officer or employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.
- (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.
- (c) No employee shall engage in political campaign activities during their official Town of Milton work day.
- (d) No Town officer or employee shall use town resources for any political campaign or political activities.
- (e) No Town officer or employee shall hold any office in a political party or political organization
- (f) No Town officers or Town employees shall serve as a committeeperson of any political party or political organization.
- (g) Nothing contained herein shall prevent those Town officers and Town employees who, as of the effective date of this Code of Ethics, currently serve as Committeepersons, or who currently hold an office in a political party or political organization, from continuing to do so. Those people shall be grandfathered in and allowed to remain in their current positions. However, they shall be prohibited from seeking additional or different political positions in the future.

SECTION 16. CONFIDENTIAL INFORMATION.

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

SECTION 17. GIFTS.

- (a) **Soliciting Gifts.** No municipal officer or employee may directly or indirectly solicit any gift from any person, firm or organization in which the officer or employee who knows or should know that they have a matter pending before the Town or has had a matter pending before the Town during the previous twelve months or is likely to have a matter pending before the Town during the following twelve month period. This shall not apply to ministerial matters.

(b) **Per Gift.** No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor within a continuous twelve (12) month period valued at seventy-five (\$75.00) or more when:

- (1) it appears that the gift is intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
- (2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
- (3) the gift is intended as a reward for any official action on the part of the officer or employee.

(c) **Per Year.** The value of the sum of all gifts accepted by an officer or employee of the municipality during any continuous twelve (12) month period may not exceed seventy-five (\$75.00).

(d) 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, or in any other form. 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 seventy-five dollars (\$75.00) must be made by adding together the value of all gifts received from the donor by an officer or employee during the calendar year preceding the receipt of the most recent gift. A gift does not include a lawful campaign contribution.

(e) (1) A gift from a person or organization that seeks to contract with the municipality is presumed to be a gift that is intended to influence an officer or employee in the exercise or performance of his or her official powers or duties.

(2) A gift from a person or organization that has a contract with the municipality, or has had a contract with the municipality during the preceding twelve months, is presumed to be a gift intended as a reward for official action.

(f) This section does not prohibit:

- (1) gifts made to the municipality;
- (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that it is that personal relationship, rather than the recipient’s status as a municipal officer or employee, that is the primary motivating factor for the gift;

- (3) gifts which are de minimis, reasonable and customary, given on special occasions, such as marriage, illness, or retirement;
- (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars; or
- (5) awards and plaques having no re-sale value which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community.

SECTION 18. ANNUAL FINANCIAL DISCLOSURE.

- (a) All Town of Milton Officials and each member of the Town Ethics Board shall file with the Town Clerk a financial disclosure statement within 30 days after taking office and no later than April 30th of each year thereafter.
- (b) Matters to be disclosed on the financial disclosure form:
 - (1) The official's home address, and the location of any real property within the town in which the town official or spouse has an ownership or other financial interest.
 - (2) The name of any partnership, unincorporated association or other unincorporated business of which the town official or spouse is an officer, employee or partner or in which the town official or spouse has a proprietary interest and the officer, employee or spouse's position, if any, with the partnership, association or business, if any such entity has engaged within the past twelve (12) months or which is anticipated to have any business dealings with the town.
 - (3) The name of any corporation of which the town official or spouse is an officer or director or employee or of which he or she or his or her spouse or of which the town official or spouse legally or beneficially owns or controls more than 5% of the outstanding stock, and any such entity that he or she has engaged within the past twelve (12) months or which he or she is anticipated to have any business dealings with the town, and the town official's and spouse's position, if any, with the corporation.
 - (4) The name of any persons from whom the town official or his or her spouse has derived income in excess of \$10,000 whereby such income was derived from a business dealing with the Town of Milton.

SECTION 19. BOARD OF ETHICS.

(a) Membership.

- (1) The Board of Ethics shall consist of five (5) members appointed and approved by a minimum of four members of the Town Board.
- (2) There shall be five (5) members of the Ethics Board with the initial Board having three (3) members serving three (3) year terms and two (2) members serving two (2) year terms.
- (3) The Board of Ethics in existence at the time of the enactment of this section shall be dissolved.

(b) Qualification of Board Members

- (1) All members of the Board of Ethics must be residents of the municipality.
- (2) The members of the Board of Ethics should be qualified by temperament and experience to carry out the duties and responsibilities of the Board.
- (3) No member of the Board of Ethics shall be a committee person or hold office in a partisan political organization or hold elective office in the Town of Milton. A Board member may make campaign contributions and vote, but not otherwise participate in any Town of Milton election campaign.
- (4) Not more than three (3) members of the Board of Ethics may be members of the same political party.
- (5) No officer or employee of the Town of Milton is eligible to serve on the Board of Ethics.

(c) Compensation

- (1) Members of the Board of Ethics shall serve without compensation, but may be reimbursed for reasonable and necessary expenses, as approved by the Town Board.

(d) Powers and Duties of the Board of Ethics

- (1) The Board of Ethics shall select its own Chairperson from within the Board for a one-year term and appoint such staff as necessary to carry out its duties under this chapter and to delegate authority to the Chairperson, if any, to act in the name of Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board may not delegate the power

to conduct hearings, determine violations, recommend disciplinary action, impose civil fines, refer any matter to a prosecutor or render advisory opinions.

- (2) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner not inconsistent with this section or state or federal law.
- (3) To review lists of municipal officials and disclosure statements pursuant to Section 18 of the Milton Code of Ethics.
- (4) To conduct investigations pursuant to Section 20 of the Milton Code of Ethics.
- (5) To conduct hearings, recommend disciplinary action and initiate appropriate actions and proceeding pursuant to Section 18 and Section 19 of the Milton Code of Ethics.
- (6) To issue advisory opinions pursuant to Section 22 of the Milton Code of Ethics.
- (7) To provide ethics training and education to town officers and employees on the provisions of the Milton Code of Ethics and Article 18 of the General Municipal Law.
- (8) The Ethics Board of the Town of Milton may act only with respect to officers and employees of the municipality and persons having business dealing with the municipality. The termination of a town officer's or employee's term of office or employment with the town shall not affect the jurisdiction of the Town Ethics Board with respect to requirements imposed by this chapter on current and former town officers or employees to the extent permitted by law.
- (9) The Town Ethics Board may refer any matter within its jurisdiction to the County Ethics Board in its discretion.
- (10) A member of the Board of Ethics may be removed from office by a minimum of four votes of the Town Board for failure to fulfill the duties of the office or for violation of this local law. The Town Board must give the Board member written notice and an opportunity to reply.
- (11) The Ethics Board must prepare an annual report to the Town Board on its activities and recommend changes to the Town Ethics Law.

SECTION 20. COMPLAINTS AND INVESTIGATIONS.

- (a) Upon receipt of a form duly sworn by the person requesting an investigation of an alleged violation of this chapter or upon the Board determining on its own initiative that a violation of this chapter may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this section. In conducting any such investigation, the Board may administer oaths or affirmations, subpoena witnesses and compel their attendance and require the production of any books or records which it may deem relevant or material. The form to be utilized in requesting an investigation of an alleged violation of this chapter shall be the form available in the office of the Town Clerk.
- (b) The Town Ethics Board investigation shall be confidential until such time that a final determination of the Town Ethics Board has been made. Thereafter the Town Ethics Board shall state in writing its disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition to the Town Board. Any findings of violations of this chapter or other applicable law shall be served upon the subject of the investigation within seven (7) days of such service of any findings of violations of this chapter and violations shall be made a public record and shall be indexed and maintained on file by the Town Clerk.

SECTION 21. ENFORCEMENT.

- (a) In its discretion and after a hearing in accordance with Article 3 of the State Administrative Procedure Act (SAPA) and subject to Section 75 of the Civil Service Law and any collective bargaining agreements, to the extent practicable, the Town Ethics Board may publicly recommend for action appropriate disciplinary action which may include a written warning, or reprimand, forfeiture of accrued leave with pay, required attendance at Ethics Training Seminars, suspension, or termination of employment to the authority, or person, or body authorized by law to impose such sanctions.
- (b) The Ethics Board shall conduct and complete the hearing with reasonable promptness, and shall not act without notice and opportunity to be heard, and shall observe appropriate due process.

SECTION 22. CONFIDENTIAL ETHICS ADVISORY OPINIONS

The Board of Ethics shall render confidential advisory opinions only to officers and employees of the Town of Milton with respect to Article 18 of the General Municipal Law and this Code of Ethics. Officers and employees of the municipality are encouraged to seek advisory opinions whenever they are uncertain whether their conduct may violate the Code of Ethics.

The Board of Ethics will prepare an advisory opinion, based on a thorough review of the facts and applicable law. The Board's opinion is to be based solely on the facts presented in the request or subsequently submitted in a written signed document. The opinion will be rendered in writing to the requester as expeditiously as is practicable, with special attention to the time requirements of a given case.

An officer or employee of the municipality whose conduct or action is the subject of an advisory opinion will not be subject to penalties or sanctions by virtue of acting, or failing to act, due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the material submitted by the requester.

The Board of Ethics will maintain a confidential indexed file of all advisory opinions issued by the Board.

SECTION 23. POSTING AND DISTRIBUTION.

(a) The Town of Milton must promptly cause a copy of this code of ethics and a copy of Article 18 sections 800 – 809 of the General Municipal Law, and a copy of any amendment to this code of ethics, to be posted publicly and conspicuously in each building under the municipality'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 Town of Milton 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 Town of Milton.

(c) Every municipal officer or employee who receives a copy of this code of ethics or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.

(d) 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 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.

SECTION 24. BIENNIAL ETHICS TRAINING.

All officers and employees of the Town of Milton and members of the Town of Milton Ethics Board must complete an ethics training seminar on a biennial basis. Ethics training will be provided at the direction of the Town Board, in conjunction with the Town Ethics Board. Ethics training will be provided by qualified professionals proficient in Municipal Ethics, and will be designed to keep recipients knowledgeable of current standards and issues in Municipal Ethics. The training seminar will be made available each year. Scheduling and records documenting compliance with this section will be performed and maintained by the Town Clerk.

SECTION 25. EFFECTIVE DATE.

This local law shall take effect upon the Town Clerk filing this code of ethics with the New York Secretary of State, but shall not be retroactive on actions or inaction that has occurred prior to its effective date.