

**TOWN OF CLAYTON  
CODE OF ETHICS  
REPLACING THE FORMER CODE OF  
ETHICS, ORIGINALLY ADOPTED IN 1970  
AND ANY AMENDMENTS THEREOF, FOR  
THE TOWN OF CLAYTON**

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 (other than the City of New York), 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

WHEREAS section 806 of the General Municipal Law 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 must 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, be it resolved that the Town Board of the Town of Clayton hereby adopts a code of ethics to read as follows:

**Code of Ethics of the Town of Clayton**

**Section 1. Purpose.**

Officers and employees of the Town of Clayton 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 Clayton 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) "Board" means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning of 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 he or she, his or her spouse, or a member of his or her 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 Clayton. The word "municipal" refers to the municipality.

(e) "Municipal officer or employee" means a paid or unpaid officer or employee of the Town of Clayton, including, but not limited to, the members of any municipal board.

(f) "Relative" means a spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, 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 of the officer or employee.

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

This code of ethics applies to the officers and employees of the Town of Clayton 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 Clayton.

### **Section 4. Prohibition on use of municipal position for personal or private gain.**

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

### **Section 5. Disclosure of interest in legislation and other matters.**

Annual disclosure of property interests plays a critical role in an effective Code of Ethics. By alerting Town citizens and Officials, Employees, and Consultants of potential conflicts of interest, the intention is to avoid violations. *It should be noted that failure to make the required disclosure filings on a timely basis is a violation of the Code of Ethics of the Town of Clayton and subject to penalty as specified in this Chapter.*

(a) All Officials, Employees, and Consultants are required, (1) annually by the last day of March each year, and (2) within 30 days of taking office or within 30 days of the effective date of this chapter, to file a Disclosure Statement, in writing, to the Town Supervisor, disclosing all potential conflicts as defined in this chapter, jointly in partnership with others, as a corporate entity or trust and the name of any partnership, corporate entity, or trust of which he or she or a Family Member is an officer, director or employee or of which he or she or a Family Member, legally or beneficially, owns or controls more than 5% of the outstanding stock or interest, and his or her position, and his or her or Family Members' position, if any, with the partnership, corporate entity or trust. The Town Supervisor's Office shall report to the Town Board anyone required to file the Annual Statement of Financial Disclosure for the Town of Clayton who fails to file the form within 30 days of the due date therefor, and the Town Supervisor's Office shall notify such persons by certified mail, if the address is known, and then 10 days thereafter, if the filing has not been received, shall post such information on the Town's Website until such filing is made. A local form entitled "Annual Statement of

Financial Disclosure For (year)" is hereby adopted as the form in which said statements shall be made and filed. A copy of said form is annexed to this chapter as **Appendix A**. The Annual Statement of Financial Disclosure required by this section shall be kept current through the filing of additional written statements with the same form of affirmation as the original Annual Statement of Financial Disclosure within 30 days of any real estate transaction for the categories of real estate covered by the Annual Statement of Financial Disclosure.

(b) The Town Board shall determine the list of persons who are subject to the disclosure requirements of this section. The distribution and receipt of the disclosure statements required by this section shall be administered by the Town Supervisor's Office. Received disclosure statements shall be reviewed by the Town Supervisor's Office, assisted by the Town Attorney when deemed necessary. Such review will consist of verifying that disclosure forms are complete and proper per the requirements of this Code of Ethics and that any actual or potential conflicts and/or violations of this Code of Ethics are identified and referred to the Board of Ethics.

(c) 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 himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.

(d) 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 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.

## **Section 6. 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 he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is 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 that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her 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, 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.

**Section 7. Prohibition inapplicable; disclosure, recusal and abstention not required.**

(a) This code's prohibition on use of a municipal position (section 4), disclosure requirements (section 5), and requirements relating to recusal and abstention (section 6), 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:

(i) all municipal officers or employees;

(ii) all residents or taxpayers of the municipality or an area of the municipality; or

(iii) 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:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 6 of this code;

(2) which comes before a municipal officer when the officer would be prohibited from acting by section 6 of this code and the matter cannot be lawfully delegated to another person.

**Section 8. 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 6 of this code; or

(2) investments that would otherwise impair the 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 other investments or the following assets:

(1) real property located within the municipality 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 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.**

No municipal officer or employee, during his or her 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:

(a) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;

(b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;

(c) violates section 805-a(1)(c) or (d) of the General Municipal Law; or

(d) 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.

### **Section 10. 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 he or she serves.

(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 he or she personally and substantially participated while serving as a municipal officer or employee.

### **Section 11. Personal representations and claims permitted.**

This code shall not be construed as prohibiting a municipal officer or employee from:

(a) representing himself or herself, or his or her spouse or minor children before the municipality; or

(b) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

### **Section 12. 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 his or her 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 is reasonably necessary for transportation, meals or lodging in connection with official travel.

### **Section 13. 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.

### **Section 14. Nepotism.**

Except as otherwise required by law:

(a) 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.

(b) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

### **Section 15. Political Solicitations.**

(a) No municipal officer or employee shall directly or indirectly to 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.

(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.

### **Section 16. Confidential Information.**

No 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 by law or in the course of exercising or performing his or her official powers and duties.

## Section 17. 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) No municipal officer or employee may directly or indirectly solicit any gift.

(c) No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:

(1) the gift reasonably appears to be 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.

(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 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

(e) (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her 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.

(2) 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 twelve months.

(f) This section does not prohibit any other gift, including:

(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 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 seventy-five dollars 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.

### **Section 18. Board of Ethics.**

(a) Within Resolution 37 of 2011, the Town Board of the Town of Clayton has authorized the Jefferson County Board of Ethics to have jurisdiction of review for any ethics issues identified within the Town of Clayton.

(b) The Jefferson County Board of ethics shall render advisory opinions to the officers and employees of the Town of Clayton with respect to article 18 of the General Municipal Law and this code. Such advisory opinions must 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. The board of ethics shall have the advice of legal counsel employed by the board, or if none, the municipality's legal counsel. In addition, 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 Town of Clayton.

### **Section 19. Posting and distribution.**

(a) The Town Supervisor must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control, alongside the required posting of sections 800-809 GML relating to Conflicts of Interest of Municipal Officers and Employees. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.

(b) The Town Supervisor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the Town of Clayton.

(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 must be filed with the Clerk to the Supervisor who must 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.

### **Section 20. Ethics Training**

The Town Supervisor's Office, with the advice and assistance of the Board of Ethics, shall develop Code of Ethics training materials and training programs based on those materials with respect to the Code of Ethics. The training will be designed to keep recipients knowledgeable of current standards and issues in municipal ethics. Each person who is required to file financial disclosure statements shall be required to attend a Code of Ethics training program conducted by the Town Supervisor's Office annually. Such training will be documented and kept in each individual's personnel file.

### **Section 21. Enforcement and Penalties.**

In its discretion, and after a hearing in accordance with Article 3 of the State Administrative Procedure Act (SAPA) and subject to § 75 of the Civil Service Law and any collective bargaining



agreements, to the extent practicable, the Ethics Board may publicly recommend 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.

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. 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 Supervisor.

(b) The Ethics Board investigation shall be confidential until such time that a final determination of the Ethics Board has been made. Thereafter, the 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.

(c) All employees of the Town of Clayton and all officials (whether paid or unpaid) are required to fully cooperate with the reasonable requests of the Ethics Board during all formal ongoing investigations. Notwithstanding the above requirement, the following conditions will also apply:

- (1) The Ethics Board shall advise the employee or officer of their right to confer with or obtain outside legal (or other) counsel. No individual shall be denied his/her right to obtain and to utilize outside legal (or other) counsel. A reasonable period of time will be provided to retain outside counsel (as a general rule, no less than thirty (30) calendar days).
- (2) Any individual questioned in connection with any investigation will be advised whether or not he/she is a target/subject of that investigation as soon as possible.
- (3) During an investigation, the subject(s) of investigation will be advised of the accusations or charges against him/her in a timely manner.

## **Section 23. Whistleblower Protection**

No Public Officer, Employee or Agency Member shall retaliate against any Public Officer, Employee or Agency Member or other person for, notwithstanding any other provision of this chapter:

(a) Submitting a complaint to the Board of Ethics; or

1. Reporting alleged waste, inefficiency, corruption, criminal activity or conflicts of interest to any federal, state or county regulatory or investigative authority, as expressly permitted by federal, state or county law; or
2. Providing information to the Board of Ethics or to a federal, state or county regulatory or investigative authority; or

3. Acting or refusing to act as required by this chapter and Article 18 of the General Municipal Law.

(b) In resolving a complaint that a Public Officer, Employee or Agency Member has violated this section, the Board of Ethics may, among other things, recommend that a retaliatory personnel or regulatory action be reversed.

**Section 24. Effective date.**

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