

TOWN OF MOIRA - TOWN BOARD RESOLUTION

THE ADOPTION OF A REVISED CODE OF ETHICS FOR THE TOWN OF MOIRA

WHEREAS, the Town of Moira previously adopted a Code of Ethics on May 9, 1989, which still is effective to date;

WHEREAS, the Town of Moira wishes to revise said Code of Ethics;

WHEREAS, the purpose of this Resolution is to revise the Town's current Code of Ethics, adopted May 9, 1989, thereby adopting a revised Code of Ethics that continues to guide and promote exemplary ethical behavior from the Town's officers, employees and appointed officials; and

WHEREAS, this Code shall provide standards for officers and employees with respect to disclosure of interests in legislation before the local governing bodies, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and other such standards relating to the conduct of Town officers and employees as may be deemed advisable.

NOW, therefore, be it resolved:

ARTICLE 1: DEFINITIONS

When used in this Resolution and unless otherwise expressly stated or unless the context otherwise requires:

A. "Chief fiscal officer" means a comptroller, commissioner of finance, director of finance or other officer possessing similar powers and duties, except that in a school district the term shall not mean a member of the board of education or a trustee thereof.

B. "Contract" means any claim, account or demand against or agreement with a municipality, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, or other proceeding where such publication is required or authorized by law.

C. "Interest" means a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a Contract with the municipality which such officer or employee serves. For the purposes of this article a municipal officer or employee shall be deemed to have an Interest in the Contract if (i) his spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves, (ii) a firm, partnership or association of which such officer or employee is a member or

employee, (iii) a corporation of which such officer or employee is an officer, director or employee, or (iv) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

D. "Municipality" or "Town" means the Town of Moira and any department, board, office commissioned agency or authority thereof.

E. "Municipal officer or employee" means an officer or employee of a the Town of Moira and any department, board, office commissioned agency or authority thereof, including but not limited to, Town Supervisor, Town Board Members, Town Justice, Town Clerk, Town Highway Superintendent, Town Assessor, members of Zoning Board of Appeals, members of Planning Board, member of the Town Ethics Board, Town Attorney or Attorney for Town, Town Engineer, all other Town officers and all Town employees.

F. "Treasurer" means a county treasurer, city treasurer, town supervisor, village treasurer, school district treasurer, fire district treasurer, improvement district treasurer, president of a board of health of a consolidated health district, county vocational educational and extension board treasurer, treasurer of a board of cooperative educational services, public general hospital treasurer, or other officer possessing similar powers and duties.

G. "Recusal" means the abstaining from all consideration, deliberation, determination, voting, review, audit or enforcement of a Contract with the Town or an action or determination by the Town or its officers by any municipal officer or employee who would otherwise have such authority, either individually or as a member of a board.

ARTICLE 2 - CONFLICTS OF INTEREST PROHIBITED

Except as otherwise provided in this Resolution:

A. No municipal officer or employee shall have an Interest in any Contract with the municipality 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 (i) negotiate, prepare, authorize or approve the Contract or authorize or approve payment thereunder, (ii) audit bills or claims under the Contract, or (iii) appoint an officer or employee who has any of the powers or duties set forth above.

B. 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 municipality 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 municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

C. No municipal officer or employee shall disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interests.

D. No municipal officer or employee shall 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.

E. No municipal officer or employee shall 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.

F. Notwithstanding any statute, law or rule to the contrary, no public officer listed in section eleven of the domestic relations law shall be prohibited from accepting any fee or compensation having a value of one hundred dollars or less, whether in the form of money, property, services or entertainment, for the solemnization of a marriage by such public officer at a time and place other than the public officer's normal public place of business, during normal hours of business. For the purpose of this section, a town or village judge's normal hours of business shall mean those hours only which are officially scheduled by the court for the performing of the judicial function.

G. No municipal officer or employee shall take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or awarding of any Interest or in any business or professional dealings with the Town or any department thereof in which the municipal officer or employee has or will have an Interest. Any such municipal officer or employee shall Recuse himself or herself from all matters having to do with such Interest unless there is an applicable exception.

H. No municipal officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates an Interest or impairs the proper discharge of his or her official duties.

I. No municipal officer or employee shall solicit or receive any gift, whether financial or in any other form from any person who is doing or seeking a Contract or who seeks to do business of any kind with the Town including applications for permits or approvals, or who has had a Contract with the town during the last twelve months; or from a lobbyist representing a person before a Town agency. A municipal officer or employee may not solicit or receive any gift or payment as a reward for exercise of official duties. Generally, a municipal officer or employee may not receive or solicit any gift creating the appearance that official duties may be influenced or that the responsibility to make impartial decisions solely in the public interest is compromised.

J. No municipal officer or employee shall take action on a matter before the Town or any instrumentality thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

K. No municipal officer or employee may use Town-owned property, assets or an resources for personal purposes or profit or to benefit any person. Use of these resources is restricted to the conduct of official business, for the benefit of all residents and to further an authorized public purpose.

L. No municipal officer or employee shall solicit political contributions from subordinates or request that they attend political functions or engage in any political activity.

M. No municipal officer or employee who has left municipal service shall appear before or receive compensation in a matter before his or her former agency for a period of 1 year after departure. Such person is permanently barred from appearing or receiving compensation regarding a matter in which he or she was personally involved as a town official.

N. A municipal officer or employee is prohibited from: (i) holding more than one position with the town when one is subordinate to the other; or (ii) holding more than one position with the Town when the duties of the positions conflict.

ARTICLE 3 - EXCEPTIONS

The provisions of Article 2 of this Resolution shall not apply to:

A. The designation of a bank or trust company as a depository, paying agent, registration agent or for investment of funds of a municipality except when the chief fiscal officer, treasurer, or his deputy or employee, has an Interest in such bank or trust company; provided, however, that where designation of a bank or trust company outside the municipality would be required because of the foregoing restriction, a bank or trust company within the municipality may nevertheless be so designated.

B. A Contract with a person, firm, corporation or association in which a municipal officer or employee has an Interest which is prohibited solely by reason of employment as an officer or employee thereof, if the remuneration of such employment will not be directly affected as a result of such Contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of such Contract.

C. The designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law.

D. The purchase by a municipality of real property or an interest therein, provided the purchase and the consideration therefor is approved by order of the supreme court upon petition of the governing board.

E. The acquisition of real property or an interest therein, through condemnation proceedings according to law.

F. A Contract with a membership corporation or other voluntary non-profit corporation or association.

G. The sale of bonds and notes pursuant to section 60.10 of the local finance law.

H. A Contract in which a municipal officer or employee has an Interest if such Contract was entered into prior to the time he was elected or appointed as such officer or employee, but this paragraph shall in no event authorize a renewal of any such Contract.

I. Employment of a duly licensed physician as school physician for a school district upon authorization by a two-thirds vote of the board of education of such school district, notwithstanding the fact that such physician shall have an interest, as defined in section eight hundred one of this chapter, in such employment.

J. Purchases or public work by a municipality, other than a county, located wholly or partly within a county with a population of two hundred thousand or less pursuant to a Contract in which a member of the governing body or board has a prohibited interest, where: (i) the member of the governing body or board is elected and serves without salary; (ii) the purchases, in the aggregate, are less than five thousand dollars in one fiscal year and the governing body or board has followed its procurement policies and procedures and the procurement process indicates that the contract is with the lowest dollar offer; (iii) the Contract for the purchases or public work is approved by resolution of the body or board by the affirmative vote of each member of the body or board except the interested member who shall abstain.

K. A Contract with a corporation in which a municipal officer or employee has an Interest by reason of stockholdings when less than five per centum of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee.

L. A Contract for the furnishing of public utility services when the rates or charges therefor are fixed or regulated by the public service commission.

M. A Contract for the payment of a reasonable rental of a room or rooms owned or leased by an officer or employee when the same are used in the performance of his official duties and are so designated as an office or chamber.

N. A Contract for the payment of a portion of the compensation of a private employee of an officer when such employee performs part time service in the official duties of the office.

O. A Contract in which a municipal officer or employee has an Interest if the total consideration payable thereunder, when added to the aggregate amount of all consideration payable under Contracts in which such person had an Interest during the fiscal year, does not exceed the sum of seven hundred fifty dollars.

P. A Contract with a member of a private industry council established in accordance with the federal job training partnership act or any firm, corporation or association in which such member holds an Interest, provided the member discloses such Interest to the council and the member does not vote on the Contract.

ARTICLE 4 - DISCLOSURE OF INTERESTS

A. Any municipal officer or employee who has, will have, or later acquires an Interest in any actual or proposed Contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the municipality of which he or she is an officer or employee, shall publicly disclose the nature and extent of such Interest in writing to his or her immediate supervisor and to the governing body thereof as soon as he or she has knowledge of such actual or prospective Interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body.

B. In addition to requirements in Paragraph A of this Article 4, any municipal officer or employee who has an Interest in a any matter being considered by any board, department, officer or employee of the Town shall also Recuse himself or herself.

C. Notwithstanding the provisions of subdivision A of this article, disclosure shall not be required in the case of an Interest in a Contract described in Article 3 of this Resolution.

ARTICLE 5 - CONTRACT VOID

Any Contract willfully entered into by or with a municipality in violation of this Resolution shall be null, void and wholly unenforceable.

ARTICLE 6 - DISCLOSURE IN CERTAIN APPLICATIONS

A. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the Interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such

applicant.

B. For the purpose of this section an officer or employee shall be deemed to have an Interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:

- (i) is the applicant, or
- (ii) is an officer, director, partner or employee of the applicant, or
- (iii) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
- (iv) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.

C. Ownership of less than five per cent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an Interest for the purposes of this section.

ARTICLE 7 - VIOLATIONS

A. Any municipal officer or employee who willfully and knowingly violates the foregoing provisions of this Resolution shall be guilty of a misdemeanor.

B. In addition to any penalty contained in this Resolution or law, any person who shall knowingly and intentionally violate this section may also be fined, suspended or removed from office or employment in the manner provided by law.

ARTICLE 8 - DISTRIBUTION and POSTING

A. The Town Supervisor shall cause a copy of this Code of Ethics Resolution to be distributed to every officer and employee of his/her municipality within fifteen (15) days after the adoption of this resolution. In the future, copies of this Code of Ethics shall be distributed to every officer or employee of the Town upon his/her entering municipal service.

B. Every Town officer and employee is required to attest in writing, on an annual basis, that he or she has reviewed the Moira Code of Ethics before April 30th of each year.

C. The Town Supervisor shall cause a copy of this Resolution to be kept posted in each public building under the jurisdiction of his municipality in a place conspicuous to its officers and employees.

D. Failure to comply with the provisions of this Article shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.

ARTICLE 9- EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

ARTICLE 10- REVOCATION

Upon the adoption of this instant Resolution, any and all previous Code of Ethics adopted for the Town of Moira, including, but not limited to the Code of Ethics adopted May 9, 1989, shall be revoked, and they shall be replaced in their entirety by this revised Code of Ethics Resolution adopted on the date detailed below.

Dated: May 13, 2008
 Moira, New York