

CODE OF ETHICS

OF THE

TOWN OF FRANKLIN

FRANKLIN COUNTY

LOCAL LAW NO. 1 OF 2003

AMENDMENT: LOCAL LAW 1 OF 2004

TOWN OF FRANKLIN

CODE OF ETHICS

SECTION 1. TITLE

This Local Law shall be known as the "Code of Ethics of the Town of Franklin."

SECTION 2. PURPOSES AND APPLICABILITY

A. Purposes.

1. To establish standards of ethical conduct for officers and employees of the Town of Franklin;
2. To provide officers and employees of the town, whether elected or appointed, paid or volunteer, with clear guidance of these standards;
3. To promote public confidence and integrity in our local government;
4. To facilitate the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people by requiring:
 - (a) Public disclosure of conflicts of interest, and potential conflicts of interest, that may influence, or be perceived to influence, the actions of officers and employees of the town; and
 - (b) The recusal of any officer or employee of the town, if the officer's or employee's acting on the matter, or failing to act on the matter, may result in a conflict of interest, or give the reasonable appearance of a conflict of interest; and
5. To provide for the fair and effective administration of this Local Law.

B. Applicability. This Code of Ethics is enacted pursuant to section 806 of the General Municipal Law and section 10 of the Municipal Home Rule Law. Officers and employees of the town must comply with the provisions of this Code of Ethics, as well as the conflict of interest standards prescribed by Article 18 of the General Municipal Law (see § IX of this Local 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.

C. Interpretation. This Code of Ethics shall be given the broadest possible interpretation so as to implement its stated purposes.

SECTION 3. STANDARD OF CONDUCT

A. General Obligations Regarding Conflicts of Interest.

1. Conflict or appearance of conflict. No officer or employee of the Town of Franklin may engage in any act which is in conflict, or gives the appearance of conflict, with the performance of his or her official duties.

2. Public perception. No officer or employee of the Town of Franklin may, by his or her conduct, give reasonable basis for the impression that:

(a) Any person can improperly influence him or her or unduly enjoy his or her favor in the performance of official duties;

(b) He or she is affected by the kinship, rank, position, or influence of any party or person; or

(c) He or she is likely to be engaged in acts that are in violation of his or her public trust.

B. Examples of conflicts of interest. An officer or employee of the town will be deemed to have a conflict of interest if:

1. (a) Business transaction or professional activity. The person willfully engages in any business transaction or professional activity which is in conflict with the person's official duties;

(b) **Financial or private interest.** The person has a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of the person's official duties; or

(c) **Obligation.** The person incurs an obligation of any nature which is in conflict with the proper discharge of the person's official duties.

2. Sale of service or property. The person has any financial interest in the sale to, or by the town, of any service or property, if the interest was received with knowledge that the town intended to purchase the property or obtain the service.

3. Use of position. The person uses or attempts to use his or her position to secure unwarranted privileges or exemptions for himself or herself or others, including members of his or her family.

4. Interference with duties. The person:

(a) Engages in or accepts private employment, or

- (b) Engages in any business transaction or professional activity, or
- (c) Makes any investment,

which will impair his or her independence of judgment in the exercise of his or her official duties, or will interfere in any manner whatsoever with the discharge of these duties.

Examples not inclusive. The foregoing acts are listed by way of example, and are not intended to be all-inclusive.

C. Gifts

1. Dollar Limit.

(a) **Per Gift.** No officer or employee of the town may accept any gift valued over twenty-five dollars (\$25.00).

(b) **Per Year.** The value of the sum of all gifts accepted by an officer or employee of the town during any calendar year may not exceed twenty-five dollars (\$25.00).

2. Perception of Taint. No officer or employee of the town may accept any gift under circumstances in which it could reasonably be inferred that the gift was intended to:

- (a) Influence the person in the performance of his or her official duties, or
- (b) Be a reward for any official action on his or her part.

3. Solicitation of Gift Prohibited. No officer or employee of the town may solicit a gift from any person.

D. Representation. No officer or employee of the town may represent any private interest before the Town Board or any agency of the town, or in any litigation in which the town is a party or complainant.

E. Appearances. No officer or employee of the town may appear before the Town Board or any agency of the town, except on his or her own behalf or on behalf of the town.

F. Confidential Information.

1. Disclosure of confidential information. No officer or employee of the town may disclose, without proper authority, confidential information concerning the property or affairs of the Town of Franklin.

2. Use of confidential information. No officer or employee of the town may use such confidential information to advance the financial or other private interest of that person or any other person.

3. Activities requiring disclosure of confidential information. No officer or employee of the town may accept employment, or engage in any business or professional activity, which will require the person to disclose confidential information which he or she has gained by reason of his or her position or authority.

G. Political Solicitation. No officer or employee of the town may request, or authorize any other person to request, any subordinate of the officer or employee to participate in an election campaign or in any other political activity, or to contribute in any way to a political campaign, committee, or any other political activity.

H. Future employment. For a period of one (1) year after termination of his or her term of office or employment with the town, no former officer or employee of the town may appear before the town, including boards and commissions on which the former officer or employee has represented the town, in relation to any matter upon which he or she had discretionary power during his or her term of office or employment with the town, unless requested to provide information by the Town Board. This provision does not apply to a former officer or employee of the town who is acting on behalf of himself or herself.

I. Avoidance of conflicts. No officer or employee of the town may knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would put him or her in violation of the Code of Ethics.

J. Inducement of others. No officer or employee of the town may induce or aid another officer or employee of the town to violate any of the provisions of this Code of Ethics.

K. Nepotism; Disclosure of relationship.

1. Employment with the town. An officer or employee of the town who is related closer in degree than first cousin to any person seeking employment or appointment with any department, section, or function of the town must disclose this relationship.

2. Employment with town entity. A member of any municipal board, commission, or other municipal body who is related closer in degree than first cousin to any person seeking employment with that body must disclose this relationship.

3. Disclosure requirements. A disclosure under this provision must be:

- (a) Made in writing,
- (b) Directed to the Town Clerk, and
- (c) Made at the earliest opportunity after the officer or employee first learns, or has knowledge of the making, of the application by the person seeking employment or appointment.

4. Covered relationship. A relationship covered by this provision must be by blood or marriage, and includes a spouse, significant other, child, or a person claimed as a

dependent on the officer's or employee's of the town latest individual state income tax return.

L. Use of public property. No officer or employee of the town may request or permit the use of town-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such use:

1. Is available to the public generally, or
2. Is provided as town policy for the use of the officer or employee in the conduct of official duties.

M. Treatment of the Public. An officer or employee of the town must treat all members of the public, whether a person, firm, corporation, or other organization, with respect and in a professional manner, with equal consideration, and without special advantage in carrying out his or her official duties.

N. Waiver. An officer or employee of the town may apply for a Waiver Request Form from any of these standards upon a showing of compelling need. A Waiver Request Form will be available from the Town Clerk or the Board of Ethics, and may be modified from time to time as deemed necessary. All waiver requests must be sent to the Town Board and the Board of Ethics.

SECTION 4. DISCLOSURE AND RECUSAL

A. Disclosure of interests.

1. In general. Any officer or employee of the town who has, will have, or later acquires a conflict of interest with respect to any matter involving the town must disclose the nature and extent of that conflict to the Town Board as soon as he or she has knowledge of the actual or prospective conflict.

2. Nature of disclosure. Disclosure must be made publicly and in writing, and must be directed to the Town Clerk. The Town Clerk must forward the written disclosure to the Board of Ethics and the Town Board.

3. Disclosure as part of the record. The written disclosure is to be made part of, and set forth in, the official record of the proceedings of the Town Board.

B. Recusal.

1. When required. An officer or employee of the town must promptly recuse himself or herself from acting on a matter before the town, if acting on the matter, or failing to act on the matter:

- (a) May result in a conflict of interest, or

(b) Give the reasonable appearance of a conflict of interest.

2. Duration of recusal. Whenever an officer or employee of the town is required to recuse himself or herself, he or she must refrain from further participation in the matter.

3. Notice of recusal. Whenever an officer or employee of the town recuses himself or herself from acting on a matter before the town, he or she must notify the Town Clerk in writing of the recusal and its basis. The Town Clerk must forward this notice to the Town Board and the Board of Ethics.

SECTION 5. SPECIFIC OFFICERS

A. Town Attorney. The Town Attorney, or special counsel to the town, is prohibited from exercising any discretion in any matter of town interest which involves any person, firm, or corporation that has been a client of the Town Attorney or special counsel, or of the Town Attorney's or special counsel's firm, within a one-year period of the time that the matter is handled by the Town Attorney. This, however, does not prevent the Town Board from assigning the matter to another attorney, as special counsel, who has had no interest in the matter.

B. Town Code Enforcement Officer. No Town Code Enforcement Officer or any assistant to such officer may, directly or indirectly, engage in the real estate or insurance business, or in the building contracting or building materials business, in the Town of Franklin during the course of his or her employment.

C. Town Assessor. No Town Assessor or any assistant to the Assessor may, directly or indirectly, engage in the real estate or insurance business or in the building contracting or building materials business, in the Town of Franklin during the course of his or her employment.

SECTION 6. INTEREST IN CONTRACTS WITH THE TOWN AND CONFLICTS OF INTEREST: ARTICLE 18 OF THE GENERAL MUNICIPAL LAW.

A. Overview. In addition to this Code of Ethics, each officer or employee of the town must comply with Article 18 of the General Municipal Law. This Article contains provisions regarding:

1. Prohibited interests in contracts with the town,
2. Exceptions to these prohibited interests,
3. Miscellaneous provisions on conflicts of interest,
4. Disclosure of conflicts of interest and recusal by officers and employees of the town, and
5. Effect of prohibited conduct on contracts and penalties for violations.

A summary of the provisions of Article 18 will be distributed to each officer and employee and posted, as provided by § 9 of this Local Law. Officers and employees of the town should familiarize themselves with the provisions of Article 18.

B. Prohibited interests. No officer or employee of the town may have an interest in a contract with the town, or an interest in a bank or trust company, that is prohibited by section 801 of the General Municipal Law. Any contract willfully entered into by or with the town, in which there is an interest prohibited by that section, shall be null, void, and wholly unenforceable, to the extent provided by § 804 of the General Municipal Law.

C. Disclosable interests. Any officer or employee of the town who has, will have or later acquires an interest in any actual or proposed contract with the town must publicly disclose the nature and extent of that interest in accordance with § 803 of the General Municipal Law. The Town Clerk must immediately file the disclosure with the Town Board and the Board of Ethics.

D. Violations. Any officer or employee of the town who violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 805 of the General Municipal Law.

SECTION 7. DEFINITIONS

Unless otherwise stated or the context otherwise requires, the following terms shall, for the purpose of this Code of Ethics, have the following meanings:

“Appear” and **“appear before”** mean communicating in any form, including, without limitation, personally, through another person, or by letter, telephone, or electronic means.

“Article 18” means Article 18 of the General Municipal Law.

“Board of Ethics” or **“Board”** means the Board of Ethics of the town, established pursuant to Section 10 of this Local Law.

“Employee” means persons who are not officers of the town, but whose salaries are paid, in whole or in part, by the town, including persons employed by the town on a per-diem or part-time basis.

“Gift” and **“financial benefit”** includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof, or any other gratuity or promise thereof or anything of value.

A financial transaction may be a financial benefit, but it is not a gift, unless it is on terms not available to the general public.

“Gift” and “financial benefit” do not include campaign contributions authorized by law.

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“Immediate family member” means a spouse, significant other, minor child or dependent claimed on the latest individual State income tax return of the officer or employee of the town involved.

“Officer” includes

1. Every officer who is elected by the electors of the town;
2. Every town officer, as defined in the Town Law; and
3. Other town officials and members of committees or boards of the town created by virtue of the Town Law and appointed by the Town Board, whether compensated or uncompensated.

“Officer or employee of the town” does not include:

1. A judge, justice, officer or employee of the town court system;
2. A volunteer firefighter or civil defense volunteer, except that a fire chief or assistant fire chief is considered an officer or employee of the town; or
3. A member of an advisory board of the town, only if the board has no authority to:
 - (a) Implement its recommendations, or

- (b) Act on behalf of the town, or
- (c) Restrict the authority of the town to act.

SECTION 8 MISCELLANEOUS PROVISIONS

A. Existing rights. No existing right or remedy shall be lost, impaired or affected by reason of this Local Law.

B. Claims permitted. Nothing in this Local Law shall be deemed to bar or prevent a present or former officer or employee of the town from timely filing any claim, account, demand, or suit against the town on behalf of himself or herself, or any member of his or her family, arising out of personal injury or property damage, or any lawful benefit authorized or permitted by law.

C. Severability. If any provision of this Local Law is held by a court of competent jurisdiction to be invalid, the decision shall not affect the validity and effectiveness of the remaining provisions of this Law.

SECTION 9. DISTRIBUTION AND POSTING

A. Distribution. The Town Clerk shall cause a copy of this Local Law, Article 18, referred to in § 4 A. of this Local Law, to be made available:

1. To every existing officer and employee of the town, within thirty (30) days after the effective date of this Local Law;
2. To every elected officer of the town who is elected thereafter, as soon as practicable after his or her election;
3. To every other officer of the town who is appointed thereafter, as soon as practicable after his or her appointment; and
4. For public inspection at the Town Clerk's office.

B. Posting. The town supervisor shall cause a copy of the provisions of Article 18, and the summary of Article 18, referred to in § 4 A. of this Local Law, to be kept posted in each public building under the jurisdiction of the town in a place conspicuous to its officers and employees.

C. Failure to distribute and post. Failure of the town to comply with the distribution and posting provisions of this section, or failure of any officer or employee of the town to receive a copy of the provisions of this Local Law, shall have no effect on the duty of compliance with this Local Law, or on the enforcement of its provisions.

SECTION 10. BOARD OF ETHICS

A. Establishment and purposes of Board.

1. Establishment. A Board of Ethics is hereby established, pursuant to section 808 of Article 18. The Board shall be known as the "Board of Ethics of the Town of Franklin."

2. Purposes. The Board shall ensure compliance with the requirements of Article 18 of this Code of Ethics, and shall review all claims of conflict of interest.

B. Composition and operation of the Board.

1. Membership. The Board of Ethics shall consist of three (3) members appointed by the Town Board to serve terms of three (3) years. The original members selected shall serve staggered terms of three (3) years, two (2) years, and one (1) year. A person appointed to fill a vacancy shall serve the unexpired term of the member he or she replaces. Consecutive service on the Board of Ethics may not exceed two (2), three (3) year terms.

2. Qualifications of Board members.

(a) All members of the Board of Ethics must be residents of the town.

(b) The members of the Board of Ethics should be qualified by temperament and experience to carry out the duties and responsibilities of the Board.

(c) No officer or employee of the town may be eligible for membership on the Board of Ethics.

(d) No member of the Board of Ethics may hold office in a political party or hold elective office in the Town of Franklin. A Board member may make campaign contributions and vote, but not otherwise participate in any Town of Franklin election campaign.

3. Compensation. Members of the Board of Ethics shall serve without compensation, but may be reimbursed for reasonable and necessary expenses, as approved in advance by the Town Board.

4. Operation.

(a) In general. The Board of Ethics shall prescribe and promulgate rules and regulations governing the organization and procedures of the Board. The Board shall elect a Chair from among its members. The Chair or a majority of the Board may call a meeting of the Board. Two (2) members of the Board are required for the purpose of conducting a meeting. A concurring vote of two (2) members is required for the Board to take action.

(b) Conflicts of Interest for Board members. The Board of Ethics may not take action, if it is determined that two (2) or more members of the Board have a conflict of interest in the matter under review.

5. Removal of Board member. A member of the Board of Ethics may be removed from office by a majority vote 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.

6. Town Attorney. The Town Attorney, or special counsel to the town, shall serve as counsel to the Board of Ethics. If this individual has a conflict of interest, or a potential conflict of interest, in the matter, the town may retain outside counsel to provide legal services to the Board of Ethics.

C. Powers and responsibilities of the Board.

1. Advisory opinions for officers and employees of the town. The Board of Ethics shall render advisory opinions to officers and employees of the town with respect to Article 18 and this Code of Ethics. Officers and employees of the town are encouraged to seek advisory opinions whenever they are uncertain whether their conduct may violate the Code of Ethics.

2. Complaints concerning alleged violations of the Code of Ethics. The Board of Ethics shall receive all complaints alleging violations of Article 18 and this Code of Ethics. Complaints shall be upon the written request of an officer or employee of the town, or any other person.

3. Handling of requests for advisory opinions and complaints. Requests for advisory opinions and complaints concerning alleged violations of Article 18 and the Code of Ethics must be signed by the individual involved, must include his or her address, and must be directed to the Board of Ethics. Upon receipt, the Board of Ethics must provide a copy of the request or complaint to the Town Board and the Town Clerk.

4. Other powers and duties of the Board.

(a) To administer and enforce all the provisions of this Local Law.

(b) To render, index, and maintain on file advisory opinions with respect to Article 18 or this Code of Ethics which the Board determines to have merit.

(c) To review, index, maintain on file, and hear all complaints alleging violation of Article 18 or this Code of Ethics which the Board determines to have merit.

(d) To grant waivers, and to index and maintain on file, applications, decisions, and other records and proceedings relating to waivers.

(i) Upon written application and proof of compelling need by the applicant, the Board of Ethics may grant a waiver of this Code of Ethics, provided that no such waiver may permit conduct otherwise prohibited by Article 18.

(ii) Waivers must be in writing, state the reasons for granting the waiver, and be made part of the public record.

(e) To prepare and submit an annual report to the Town Board summarizing the activities of the Board of Ethics, including any changes to the text or administration of this Local Law recommended by the Board.

(f) To provide for public inspection of certain records and open meetings:

(i) The only records of the Board of Ethics will shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York, or by other State or Federal law or regulation.

(ii) No meeting or proceedings of the Board of Ethics concerning misconduct, non-feasance, or neglect in office by an officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by other State or Federal law or regulation.

(g) To make recommendations to the Town Board as to the appropriate sanction, discipline, or other action to be taken or imposed with respect to any finding or determination of reasonable cause to believe that a violation of this Local Law has occurred.

(h) To monitor compliance of officers and employees of the town with decisions and recommendations made by the Board of Ethics.

(i) To have such other powers and duties as are provided by Article 18.

D. Hearing and representation. The Board of Ethics may conduct a hearing to determine if any violations of Article 18 or this Local Law have occurred. All hearings shall be conducted, to the maximum extent practicable, in accordance with the provisions of Article 3 of the State of New York Administrative Procedure. Any person compelled to appear in person, or who voluntarily appears before the Board of Ethics, shall be accorded the right to be accompanied, represented by, or advised by counsel or other individual selected by the person involved.

E. Disciplinary action.

1. Recommendation for disciplinary action. After a hearing, and subject to any applicable provisions of law and collective bargaining agreements, the Board of Ethics may recommend disciplinary action for any officer or employee of the town who engages in any action that violates any provisions of Article 18 or this Local Law. The recommendation of the Board of Ethics shall be made to the Town Board.

2. Types of sanction. Sanctions recommended may include a warning, reprimand, or suspension or removal from office or employment, or may subject the officer or employee to any other sanction authorized by law or collective bargaining agreement. In the case of a criminal violation, the Board of Ethics may recommend that the matter be referred to the appropriate District Attorney for criminal prosecution.

3. Action by Town Board. The Town Board is hereby authorized to impose, in its discretion, any of the sanctions and actions referred to in this section.

4. Special sanction for contractors. In addition to any other sanction, any person that willfully attempts to secure preferential treatment in his, hers, or its dealings with the town by offering any gift in any form to any officer or employee of the town, shall have its current contracts with the town cancelled, and shall not be able to bid on any other town contract for a period of two (2) years.

F. Findings of conflict of interest. Any opinion of the Board expressing a finding of conflict of interest shall be made in public in accordance with the adopted rules and regulations of the Board and the guaranties of due process. These rules and regulations shall be reviewed by the Town Attorney for consistency and legality before adoption by the Board.

G. Judicial review. Any person aggrieved by a decision of the Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

SECTION 11. SUPERSESSSION

This Local Law shall supersede and repeal the Code of Ethics enacted by Resolution No. 48, October 14, 1991, as well as any administrative guidance issued before the date of enactment of this Law that purports to prescribe standards of conduct addressed by this Law, including (but not limited to) Section 101 of the "Town of Franklin Employee Handbook," as in effect at the effective date of this Local Law.

SECTION 12. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in compliance with all applicable provisions of law.