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TOWN OF NAPLES

LOCAL LAW 3 OF THE YEAR 2010

A LOCAL LAW AMENDING THE ETHICS CHAPTER OF THE CODE OF THE TOWN OF NAPLES, NEW YORK

Be it enacted by the Town Board of the Town of Naples as follows:

Section 1: Short Title.
This local law shall hereafter be known as the "Local Law to Amend the Ethics Chapter Of The Code of the Town of Naples"

Section 2: Legislative Intent.
The purpose of this Local Law is to amend the Ethics Chapter of the Code of the Town of Naples. The Town Board finds that the current Ethics Chapter is in need of updating and therefore amends the existing provisions.

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

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 standards of conduct for the guidance of its officers and employees; and

Section 806 of the General Municipal Law also authorizes the governing body of any other municipality to adopt such a code of ethics; and

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.

Section 3: Legislative Authority.
This local law is enacted pursuant to the provisions of the General Municipal Law and Municipal Home Rule Law of the State of New York, with the procedural provisions of

the Municipal Home Rule Law controlling.

Section 4: Provisions.

Chapter 21.
Ethics

Article I
Code of Ethics

§21-1. Findings and purpose.

Pursuant to the provisions of §806 of the General Municipal Law of the State of New York, the Town Board of the Town of Naples, Ontario County, New York, recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in the Town unit of local government, It is the purpose of this chapter to promulgate rules of ethical conduct for municipal employees and officers of the Town of Naples, Ontario County, New York.

§21-2. 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 Naples. The word "municipal" refers to the municipality.

(e) "Municipal officer or employee" means a paid or unpaid officer or employee of the Town of Naples, 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 or household member of the officer or employee.

§21-3. Applicability.

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

§21-4. 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.

§21-5. Disclosure of interest in legislation and other matters.

(a) Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to 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.

(b) The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§21-5.1. 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.

§21-5.2. 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.

§21-5.3. 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.

§21-5.4. 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.

§21-5.5. 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.

§21-5.6. 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.

§21-5.7. 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.

§21-5.8. 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.

§21-5.9. Nepotism.

Except as otherwise required by law 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.

§21-5.10. 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.

§21-5.11. 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.

§21-5.12. 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.

§21-5.13. Board of Ethics.

(a) There is hereby established a board of ethics for the municipality. The board of ethics shall consist of three members, a majority of whom shall not be officers or employees of the municipality, but at least one of whom must be a municipal officer or employee. The members of such board of ethics shall be appointed by the Town Board, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the board of ethics.

(b) The board of ethics shall render advisory opinions to the officers and employees of the Town of Naples 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 Board.

§21-5.14. Posting and distribution.

(a) The Town Supervisor shall 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. 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 Naples.

(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 of the Town of Naples 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.

§21-5.15. Enforcement.

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

Section 5. **Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board of the Town of Naples.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of the year 2010, of the Town of Naples was duly passed by the Town Board on September 13, 2010 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Joanne Lincoln, Naples Town Clerk

(SEAL) Date: September 15, 2010

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward J. Brockman, Town Attorney
Town of Naples
Date: September 15, 2010

Resolution No. 8 2010

Adoption of Local Law amending the Ethics Chapter of the Code of the Town of Naples

Motion by Councilperson Kathleen Riesenberger, seconded by Councilperson Gary Schenk to adopt the following resolution:

WHEREAS, the Town Board has determined to amend the Ethic Chapter of the Code of the Town of Naples; and

WHEREAS, SEQRA issues were previously dealt with by the Town Board, the adoption hereof being determined to be a Type II action; and

WHEREAS, a public hearing was held before the Town Board on said proposed local law on August 9, 2010; and

WHEREAS, the proposed local law was previously distributed to the Town Board Members.

NOW THEREFORE BE IT RESOLVED, THAT

1 The Town Board of the Town of Naples adopts proposed Local Law C of the Year 2010 as Local Law 4 of 2010.

2. The Town Clerk is directed, through the Town's legal counsel, to file such Local Law of 2010 with the Secretary of State of the State of New York and provide for the requisite publication and posting of the Notice of Adoption of such local law together with such other acts that are customarily associated with the adoption and implementation of a Local Law, including the entry thereof in the minutes of the Town Board Meeting.

TOWN CLERK'S CERTIFICATION

STATE OF NEW YORK)
COUNTY OF ONTARIO) SS:

I, the undersigned, Town Clerk of the Town of Naples, Ontario County, New York, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a meeting of the Town Board of the Town of Naples, duly scheduled meeting and held on the 13th day of September, 2010, at which a quorum was present and participated in throughout, said Resolution having been unanimously passed, and that the same has not been in any way rescinded or annulled but is still in full force and effect and is duly entered in the minutes of said meeting.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the said Town the day of September, 2010.

(SEAL)

Joanne Lincoln, Town Clerk
Town of Naples

Town of Naples
106 South Main Street (PO 535)
Naples, New York 14512
(585) 374 2111

On September 13, 2010 the Town Board of the Town of Naples amended the Ethics Chapter of the Code of the Town of Naples, New York that sets forth standards of conduct for all officers and employees.

This law requires that the Town supervisor must distribute a copy of this Ethics Code to every officer and employee. In addition the code requires that every municipal officer or employee must acknowledge such receipt in writing.

Your signature below documents that you have received the Ethics Chapter of the Code of the Town of Naples, New York.

Signature: _____

Name: _____

Date: _____