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Town of Canaan

Local Law No. P1 of the year 2005

A local law to enact a Code of Ethics and Disclosure for the Town of Canaan.

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

Section 1. Purpose

The purpose of this local law is to create the Code of Ethics and Disclosure of the Town of Canaan in compliance with Article 18 of the New York State General Municipal Law. The Town of Canaan acknowledges that the proper administration of the government of the Town requires its officers and employees, whether elected or appointed, paid or unpaid, to be independent, impartial and free from conflicts of interest in fulfilling their public responsibilities, so that the public will have confidence in the integrity of its town government. Therefore, the public interest requires that this Code of Ethics and Disclosure be adopted as a standard of conduct, in addition to the standards proscribed in Article 18 of the General Municipal Law, for officers and employees of the Town of Canaan. This law is intended to create the minimum standards which constitute such required ethical behavior.

Section 2. Financial Disclosure

The Town Board also finds that the filing of a financial disclosure form annually by all public officers and employees of the Town will further the objectives of this local law ensuring public awareness of any issues that might present a potential for conflict of interest. Such disclosure will also increase public confidence in the manner in which decisions and policies made by the Town are reached.

Section 3. Repeal

Town of Canaan Local Law No. 1 of 1970 and any other Town ordinance, local law, rules and/or regulations inconsistent with the provisions of this Local Law No. P1 of 2005 are hereby repealed.

Section 4. Code of Ethics and Disclosure of the Town of Canaan

The following is hereby enacted as the "Code of Ethics and Disclosure" of the Town of Canaan:

CODE OF ETHICS AND DISCLOSURE

ARTICLE I DEFINITIONS

Unless otherwise stated or unless the context otherwise requires, when used in this section, the following terms shall have the meanings indicated:

1. **TOWN OFFICER/MUNICIPAL EMPLOYEE** shall mean any public official, officer or employee of the Town, whether paid or unpaid, and includes without limitation, all members of any office, board, body, council, commission, agency, department, district, administration or committee of the Town. "Town Officer or Municipal Employee" shall not include: (a) a judge, justice, officer or employee of the Unified Court System; (b) a volunteer firefighter or civil defense volunteer, except a fire chief or assistant fire chief.

2. **PUBLIC OFFICIAL** shall mean the Town Supervisor, the Deputy Supervisor, the members of the Town Board, the Town Superintendent of Highways, the Town Clerk, the Deputy Town Clerk, the Town Tax Receiver, the Assessor, the Zoning Enforcement Officer, the Building Inspector, the Secretary to the Zoning Board of Appeals, members of the Zoning Board of Appeals, the Secretary to the Planning Board, members of the Planning Board, members of the Board of Assessment Review, members of the Board of Ethics.

3. **INTEREST** shall be defined as a direct or indirect pecuniary or material benefit accruing to a Town officer or municipal employee as a result of a transaction with the Town. For the purpose of this section, a Town officer or municipal employee shall be deemed to have an interest in the contract of:

- A. His or her spouse, minor children and dependents, except a contract of employment with the Town which such Town officer or municipal employee serves.
- B. A firm, partnership or association of which such Town officer or municipal employee is a member or employee.
- C. A corporation of which such Town officer or municipal employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such Town officer or municipal employee.

4. **CONFIDENTIAL INFORMATION** shall mean any data acquired through the course of employment or public office in the Town of Canaan which is privileged or otherwise protected from disclosure by law or that is not protected by law but poses or may pose a conflict of interest.

5. **PERSON** shall include both an individual and corporate entities.

6. **GIFT AND/OR FINANCIAL BENEFIT** shall include any money, service, license, permit, contract, authorization, loan, travel, entertainment or 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 shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefits" do not include campaign contributions authorized by law.

7. **MINISTERIAL ACT** shall mean an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

ARTICLE II CONFLICT OF INTEREST

It is the policy of the Town of Canaan that all Town officers and municipal employees must avoid conflicts or potential conflicts of interest. The conflict or potential conflict exists whenever a Town officer or municipal employee has an interest, direct or indirect, which conflicts with his or her duty to the Town of Canaan or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. Therefore, all Town officers and municipal employees of the Town of Canaan shall follow the standard of conduct. No Town officer or municipal employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or awarding of any contract or in any business or professional dealings with the Town or any department thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.

2. 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 a conflict of interest or impairs the proper discharge of his or her official duties.

3. Solicit, directly or indirectly, any gift or receive or accept any gift having the value of seventy-five dollars (\$75) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

4. Disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest.

5. 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.

6. Use his or her official position to secure privileges or exemptions for himself or herself or others.

7. Give reasonable basis for the public perception that any person can improperly influence his or her judgment, unduly enjoy his or her favor in the performance of his or her official

responsibilities, or that he or she is affected by the kinship, rank, position or influence of any party or person.

8. Fail to disclose any interest that he or she knowingly may have in an application before the Zoning Board of Appeals and/or the Planning Board for interpretation, zoning variance, special permit, subdivision, lot line adjustment, and/or site plan.

9. Fail to disclose any interest that he or she knowingly may have in legislation before the Town Board.

ARTICLE III EXCLUSIONS FROM THE CODE OF ETHICS AND DISCLOSURE

The provisions of this section shall not prohibit, or require, recusal or transactional disclosure as a result of:

1. An action specifically authorized by statute, rule or regulation of the State of New York or the United States.

2. A ministerial act.

3. The following gifts:

A. Received by the Town officer or municipal employee from his or her relative.

B. Having an aggregate value of \$75.00 or less during any 12-month period.

C. Accepted on behalf of the Town and transferred to the Town.

D. Awards from charitable organizations.

E. Receipt of Town services or benefits, or use of Town facilities, that are generally available along the same terms and conditions to any resident or class of residents in the Town.

ARTICLE IV DISCLOSURE OF INTERESTS

1. Any Town officer or municipal employee who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Town shall publicly disclose on the official record of the Town the nature and extent of such interest.

2. Any Town officer or municipal employee who has knowledge of any matter being considered by the Town of Canaan, in which he or she has or will have or intends to acquire any direct or indirect interest, shall immediately disclose, in writing, his or her interest to the Town and the nature and the extent thereof in sufficient detail that such disclosure gives substantial notice of any potential conflict of interest.

3. Town officers and/or municipal employees shall be required to file a signed annual disclosure statement as set forth on a form adopted by resolution of the Canaan Town Board and is not adopted by Local Law P1 of 2005. Such annual disclosure statements shall

constitute personnel records of Town officers or municipal employees and shall not be subject to public disclosure.

4. Annual disclosure statements shall be filed with the Board of Ethics:
 - A. **Within 120 days after the effective date of this section;**
 - B. **No later than February 15 of each year thereafter.**
5. Extension of Time for Filing Annual Disclosure Statement.
 - A. The Board of Ethics shall be empowered to grant an extension of time for filing the annual disclosure statement. In order for the Board of Ethics to grant a request for an extension of time to file the annual disclosure statement beyond the February 15 deadline, the Board of Ethics shall find that there is justifiable cause for filing after the deadline or that application of the deadline will impose an undue hardship.
 - B. A request for an extension of time shall be filed with the Board of Ethics on or before February 1 in the year for which the extension is sought, or in the case of a new Town officer or municipal employee, no more than 15 days after such person commences his or her duties with the Town. A request for an extension to file shall be in the form established by the Board of Ethics.
6. All information obtained by the Board of Ethics, and not made public pursuant to the Code of Ethics and Disclosure, shall be considered confidential and any disclosure shall be unwarranted invasion of personal privacy under the meaning of the Freedom of Information Law. The Board of Ethics may make public only relevant portions of an annual disclosure statement files by a Town officer or municipal employee where the Board of Ethics determines a conflict of interest or other impropriety exists and only after the affected Town officer or municipal employee has received written notice of said determination stating the reasons for public disclosure and been provided a 21-day period to respond to said notice.
7. It shall be a violation of the Code of Ethics and Disclosure for a member of the Board of Ethics or other person to disclose any information contained on an annual disclosure statement, except as authorized by the Code.
8. Disclosure Form Distribution. The Town Supervisor shall, on or before the 15th day of January of each year, cause the Annual Disclosure Statement to be distributed, for completion and filing, to those Town officers or municipal employees that are required to file.
9. Failure to File Report or Filing Incomplete Reports.
 - A. Notice of Disclosure Violation. If a person required to file an Annual Disclosure Statement with the Board of Ethics fails to file such disclosure statement, or files a deficient statement, the Board of Ethics shall notify said person in writing, state the failure to file or detail the deficiency, provide the person with a 15-day period to cure the deficiency and advise the person of the penalty for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Board of Ethics shall send a notice of delinquency to the reporting person and to the Town Board.

- B. Penalties. Any Town officer or municipal employee who violates the disclosure provisions set forth in this Article shall be subject to such penalties and proceedings as set forth in Article VII of the Code of Ethics and Disclosure.

ARTICLE V DISTRIBUTION OF THE CODE OF ETHICS AND DISCLOSURE

The Town Supervisor shall cause a copy of the Code of Ethics and Disclosure to be distributed to every Town officer and municipal employee within 15 days after the effective date thereof. Each Town officer or municipal employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Failure to distribute any such copy or failure of any Town officer or municipal employee to receive such copy shall have no effect on the duty of compliance with the Code of Ethics and Disclosure, nor the enforcement provisions thereof.

ARTICLE VI BOARD OF ETHICS

1. Pursuant to Article 18 of the New York State General Municipal Law, there is hereby established the Canaan Board of Ethics consisting of five members, who shall be nominated and appointed by the Town Board. All members of the Board of Ethics must be individuals who are eligible to register to vote in the Town of Canaan.

2. No more than one member of the Board of Ethics may be a Town officer or municipal employee.

3. Within 30 days after the effective date of this local law, and no later than December 31 each year thereafter, the Town Board shall appoint the members of the Board of Ethics. Of the initial members appointed, two shall be appointed for three years, two shall be appointed for two years, and one shall be appointed for one year. All subsequent appointees shall be appointed to three-year terms commencing January 1.

4. When a vacancy occurs in the membership of the Board of Ethics, the vacancy shall, within 60 days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Board of Ethics shall meet the qualifications set forth in this Article.

5. Members of the Board of Ethics shall serve without compensation, but shall be entitled to reimbursement for reasonable expenses in accordance with rules established by the Town Board. Members of the Board of Ethics shall be construed under the Code of Ethics and Disclosure to be policy-making officials, and shall be subject to all of the appropriate ethical and disclosure requirements.

6. Three members shall constitute a quorum for transaction of business by the Board of Ethics. Any action of the Board of Ethics requires three affirmative votes.

7. The Town Board shall select one of the members of the Board of Ethics to act as Chairperson of the Board.

8. At its first meeting each year, the Board of Ethics shall elect a Vice-Chairperson and Clerk from among its members. The Clerk shall maintain confidential records of all meetings, proceedings and opinions rendered, and said records shall be confidential personnel records and shall not be subject to public disclosure.

9. Powers and duties of the Board of Ethics
 - A. The Board of Ethics may only act with respect to Town officers or municipal employees of the Town of Canaan.
 - B. The Board of Ethics shall possess all powers and duties authorized by section 808 of the New York State General Municipal Law.
 - C. The Board of Ethics shall possess the additional following powers and duties:
 - (1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with the Code of Ethics and Disclosure as so authorized by the Town Board.
 - (2) To review, index, and maintain on file completed annual disclosure statements filed pursuant to the Code Ethics and Disclosure.
 - (3) To review, index, maintain on file, and dispose of requests for advisory opinion and/or complaints submitted to the Board of Ethics by Town officers or municipal employees and related to alleged ethical violations and to make notification thereof to the subject Town officer or municipal employee and the Town Board. All such requests and/or complaints and notifications shall constitute confidential personnel records and shall not be subject to public disclosure.
 - (4) To investigate, conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to the Code of Ethics and Disclosure.
 - (5) To otherwise enforce and administer all of the provisions of the Code of Ethics and Disclosure.

10. Removal of Members. A member of the Board of Ethics may be removed from office in the same manner in which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in the Code of Ethics and Disclosure, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of the Code of Ethics and Disclosure or any other Town law.

11. Meetings. Meetings of the Board of Ethics shall be held as required, upon the call of the Chairperson, or by any three members, upon 48 hours notice to each board member. Due to the personnel nature of such sessions, all meetings and hearings with respect to complaints filed by Town officers or municipal employees shall be confidential executive sessions, with no public participation. The Board of Ethics shall hold at least one meeting annually regardless of whether there are any matters pending before the Board of Ethics.

12. Review of Lists and Disclosure Statements.

- A. The Board of Ethics shall review all annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential

violation of the Code of Ethics and Disclosure.

- B. If a person required to file an annual disclosure statement with the Board of Ethics fails to file such a statement, files a deficient statement, or, having filed such a statement, reveals a possible or potential violation of the Code of Ethics and Disclosure, the Board of Ethics shall notify the reporting person in writing of such deficiency or alleged violation and of the penalties for failure to comply with the Code of Ethics and Disclosure and provide the person with a 15-day period to cure the deficiency.

13. Investigations.

- A. If the Board of Ethics preliminarily finds that a possible violation of the Code of Ethics and Disclosure exists, the Board of Ethics may, but shall not be required to, provide the person(s) affected with a reasonable opportunity to cure such violation. Such a preliminary finding shall be confidential and not subject to public disclosure. If under any other circumstances, such as through the filing and investigation of a complaint, the Board of Ethics determines that there is reasonable cause to believe that a violation of the Code of Ethics and Disclosure has occurred, or after any grace period granted by the Board of Ethics has expired and such violation remains uncured, it shall send a notice of potential violation to:
 - (1) The reporting/affected person; and
 - (2) The Supervisor and the Town Board.
- B. Before any such "reasonable cause" finding shall be made, the Board of Ethics shall:
 - (1) Notify in writing the reporting/affected person as to the potential violation of the Code of Ethics and Disclosure;
 - (2) Afford the reporting/affected person an opportunity to submit a written response setting forth such information as said person deems relevant to the activities cited by the Board of Ethics as a potential violation of the Code of Ethics and Disclosure; and
 - (3) Upon written request of the affected person, conduct a hearing wherein the affected person may present either a written or oral response setting forth such information as the affected person deems necessary or appropriate in response to the allegations of the Board of Ethics.
- C. Upon the receipt of a signed written complaint by any Town officer or municipal employee alleging a violation of the Code of Ethics and Disclosure, or upon determining on its own initiative that such violation may exist, the Board of Ethics shall conduct any investigation as it may deem reasonably necessary to carry out the provisions of the Code of Ethics and Disclosure.
- D. The Board of Ethics shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for said disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the Board of Ethics.

- E. Any Town officer or municipal employee filing a written request for advisory opinion or complaint with the Board of Ethics shall be notified in writing of the disposition of the advisory opinion or the complaint.
- F. Nothing in this section shall be construed to permit the Board of Ethics to conduct an investigation of itself or of any of its members or staff. If the Board of Ethics receives a complaint alleging that the Board of Ethics or any of its members or staff has violated any provision of the Code of Ethics and Disclosure, or any other law, the Board of Ethics shall promptly transmit a copy of the complaint to the Town Board. The Board of Ethics may request the Town Board to conduct an investigation of the Board of Ethics or of any of its members or staff.

14. Opinions of the Board of Ethics.

- A. All opinions of the Board of Ethics shall be rendered within 60 days of the receipt of a request for an advisory opinion or a complaint and all supporting documentation or information, with all references to names, addresses and other information that would constitute a breach of confidentiality removed therefrom. If additional time beyond the 60 days is required to render an opinion, the Board of Ethics shall request authorization for such extension from the Town Board.
- B. Requests for advisory opinions or complaints. Upon the written request or complaint of any Town officer or employee, the Board of Ethics shall render a written opinion with respect to the interpretation or application of this local law or of Article 18 of the General Municipal Law of the State of New York. All requests by Town officers or municipal employees shall describe the conduct, specify the alleged conflict of interest or other alleged wrongdoing on the part of a Town officer or municipal employee, and be signed by the requesting Town officer or municipal employee. Any Town officer or municipal employee may similarly request an advisory opinion with respect to whether his or her own action may violate a provision of the Code of Ethics and Disclosure Article 18 of the General Municipal Law.
- C. Notice. Notice of a request for advisory opinion and/or complaint against a Town officer or municipal employee and copies of any evidence of an alleged conflict of interest or alleged wrongdoing shall be provided to the Town officer or municipal employee who is the subject of the request or complaint.
- D. Hearing on Request for Advisory Opinion or Complaint. The Board of Ethics shall conduct a hearing on the request for advisory opinion and/or complaint. The subject Town officer or municipal employee may be present and shall have the right to be represented by an attorney at the hearing, which hearing shall not be open to the public.
- E. Written Opinion. At the conclusion of its deliberations, the Board of Ethics shall render a written confidential opinion to the Town Board and the identity of the persons involved in the matter shall not be disclosed other than to the Town Board. Copies of the opinion shall be provided to the Town officer or employee who is the subject of the request for advisory opinion or complaint. The advice of counsel may be obtained before submitting the Board of Ethics advisory opinion to the Town Board.

- F. An opinion rendered by the Board of Ethics, until and unless amended or revoked, shall be binding on the Board of Ethics in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the Board of Ethics may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.
- G. Any person aggrieved by an opinion of the Board of Ethics may request a rehearing of the matter by the Town Board.

15. **Judicial Review.** Any person aggrieved by an advisory opinion and/or decision of the Board of Ethics may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

16. **Public Inspection of Code of Ethics.** The Board of Ethics shall make information concerning the Code of Ethics and Disclosure and Article 18 of the General Municipal Law available to the Town officers and municipal employees, to the public, and to persons interested in doing business with the Town.

17. **Annual Reports; Review of Code of Ethics.**

A. The Board of Ethics shall prepare an annual report summarizing the activities of the Board of Ethics for the previous fiscal year and submit said summary to the Supervisor and the Town Board by April 15.



B. The Board of Ethics shall periodically review the Code of Ethics and Disclosure and the Board of Ethics' rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable, common sense standards of conduct. At any time, the Board of Ethics may recommend changes to the text or administration of this local law to the Town Board.

ARTICLE VII HEARINGS; ASSESSMENT OF PENALTIES; INJUNCTIVE RELIEF.

Any person whose conduct constitutes a violation of the Code of Ethics and Disclosure is subject to the following disciplinary actions, civil fines, damages, civil forfeiture or referral to appropriate authorities for prosecution:

1. **Disciplinary action.** After a hearing providing for due process procedural mechanisms, the Board of Ethics, in its discretion, may recommend appropriate disciplinary action including, but not limited to, a warning, reprimand, suspension or removal from office or employment. Such disciplinary action may be imposed in addition to any other penalty contained in the Code of Ethics and Disclosure. Said recommendation of the Board of Ethics shall be made to Town Board or such other person or body authorized by law to impose such disciplinary action. The Board of Ethics shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Board of Ethics refers the matter to the Town Board or such other person or body authorized by law to impose disciplinary action or the appropriate prosecutor. If such a referral is made, the Board of Ethics may

adjourn the matter pending determination by the Town Board, person, body, or prosecutor, as the case may be.

2. Civil fine. In its discretion and after a hearing upon the recommendation of the Board of Ethics and providing for due process procedural mechanisms, the Town Board, pursuant to the Code of Ethics and Disclosure, may assess a civil fine, not to exceed \$1,500 for each violation, upon any Town officer or municipal employee found by the Board of Ethics to have violated the Code of Ethics and Disclosure. The Town Board shall conduct and complete the civil fine hearing with reasonable promptness. The subject Town officer or employee may be present and shall have the right to be represented by an attorney at the civil fine hearing, which hearing shall not be open to the public. The civil fine shall be payable to the Town. A civil fine may be imposed in addition to any other penalty contained in any other provision of the law or the Code of Ethics and Disclosure.

3. Damages. Any Town officer or municipal employee who violates any provision of the Code of Ethics and Disclosure shall be liable in damages to the Town of Canaan for losses or increased costs incurred by the Town as a result of the violation. The Town Board may initiate an action in the court of appropriate jurisdiction to obtain said damages. Such damages may be imposed in addition to any other penalty contained in any other provision of the law or in the Code of Ethics and Disclosure.

4. Civil Forfeiture. Any Town officer or municipal employee who intentionally or knowingly violates any provision of the Code of Ethics and Disclosure may be subject to civil forfeiture to the Town in a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in the Code of Ethics and Disclosure.

5. Injunctive relief. The Town Board, or the Board of Ethics on behalf of the Town, may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction for injunctive relief to enjoin a violation of the Code of Ethics and Disclosure or to compel compliance therewith.

6. Prosecutions. The Board of Ethics and/or the Town Board may refer to the appropriate prosecutor possible criminal violations of this local law. Nothing contained in this local law shall be construed to restrict the authority of any prosecutor to prosecute any violation of the Code of Ethics and Disclosure or of any other law.

Section 5. Effective Date.

This Local Law shall become effective upon filing in the Office of the Secretary of State.