

**AN ORDINANCE ESTABLISHING A CODE OF ETHICS
AND APPOINTED BOARD OF ETHICS**

Section 1. Policy and Purpose

The proper operation of the municipal government of the Town of Canton requires that all public officials and municipal employees, whether elected or appointed, paid or unpaid, shall be impartial and responsive to the public interest; that public office and employment should not be used for personal gain or advantage; and that the public have confidence in the integrity of its municipal government. Public Officials must take all steps necessary to avoid even the appearance of a conflict of interest. Public office is a trust conferred by public authority for public purpose. Public officials and municipal employees should not place themselves in positions where private interests conflict with public duty.

Section 2. Definitions

As used in this ordinance the following words or phrases shall have the meanings ascribed to them in this section:

“*Agency*” means any board, commission, authority and committee of the Town, including the Board of Education and all ad-hoc committees.

“*Board*” means the Town’s Board of Ethics, as established hereunder.

“*Business with which Associated*” and similar phrasing means any profit/non-profit sole proprietorship, partnership, firm, corporation, trust or other entity in which an Official, Employee or Consultant or member of his/her Immediate Family is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five (5) percent or more of the total outstanding stock of any class. A “*Business with which Associated*” shall not include a not-for-profit entity solely by virtue of the fact that the Official, Employee or Consultant or member of his/her Immediate Family is an unpaid director or officer of the not-for-profit entity.

“*Code*” means the Code of Ethics.

“*Confidential Information*” means information, however transmitted, that is obtained by an Official, Employee or Consultant by reason of his/her public position and is of such a nature that, at the time of transmission, it is not a matter of public record or public knowledge.

“*Consultant*” means any independent contractor or professional person or firm that is engaged by and receives compensation from the Town for the purpose of providing

professional services and is in a position to influence any decision of a Town Agency, Official or Employee.

“*Employee*” means, for purposes of this ordinance only, any person receiving a salary, wages, stipend or any other financial benefit, including but not limited to retirement benefits or stipends paid to volunteer firemen, for services rendered on behalf of the Town.

“*Immediate Family*” means the spouse, domestic partner, children or dependent relatives who reside in the Official, Employee or Consultant’s household.

“*Financial Interest*” means any interest that results or will result in a monetary or other material benefit, either directly or indirectly, to an Official, Employee or Consultant or an Immediate Family Member of an Official, Employee or Consultant, valued at more than fifty dollars (\$50.00) in any one calendar year and that is not common to all other citizens of the Town.

“*Gift*” means anything greater than fifty dollars (\$50.00) in value received in any one calendar year from any one individual or entity to the extent that consideration of equal or greater value is not received. A Gift includes, but is not limited to, (a) entertainment, food, beverage, travel and lodging to the extent that the value thereof exceeds fifty dollars (\$50.00) for any one occasion; and (b) loans that are at less than a rate available to the general public.

Gift does not include:

- A political contribution that is otherwise reported in accordance with the law.
- A loan made on terms that are commercially reasonable and not more favorable than loans made in the ordinary course of business.
- Any gift, regardless of value, received from an Immediate Family member.
- Certificates, plaques or other ceremonial awards having a value of less than seventy five dollars (\$75.00).
- Price rebates or discounts on anything of value made in the ordinary course of business without regard to the recipient’s status.
- Items of nominal value, not to exceed ten dollars (\$10.00), containing or displaying promotional material.
- Honorary degrees bestowed by a public or private university or college.
- For an event in which the Official or Employee participates in his/her official capacity, the meal provided at and the payment or waiver of registration or entrance

fees to attend such event. Any costs associated with travel or lodging would be considered a gift.

- Gifts less than fifty dollars \$50.00 in value tendered on gift-giving occasions generally recognized by the public.

“Official” is any person holding elective or appointive town office including, whether paid or unpaid, part-time or full-time and shall include members and alternate members of town agencies, boards, commissions, committees and subcommittees.

“Personal Interest” means any involvement of an Employee, Official or Consultant in which a matter under his/her consideration will result in the Employee, Official or Consultant, or his/her Immediate Family Member deriving an advantage or benefit of a non-financial nature.

“Probable Cause” means determining whether the facts would warrant a reasonable person to believe that an Official, Employee, Consultant or other person violated this Code; the belief should be more than a mere suspicion, but less than proof beyond a reasonable doubt.

“Town” means the Town of Canton and, unless the context indicates otherwise, shall include all political subdivisions and Agencies, including the Board of Education.

Section 3. Code of Ethics

A. Applicability:

All Officials, Employees and Consultants shall be bound by this Code.

B. Use of town assets restricted.

No Official, Employee or Consultant shall use or permit the use of Town funds, services, property, equipment, owned or leased vehicles, or materials for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies for the use of such Officials or Employees.

C. Fair and equal treatment.

No Official, Employee or Consultant shall grant or accept any special consideration, treatment or advantage to or from any person, beyond that which is available to every other person, from any individual or entity who, to the Official, Employee or Consultant’s knowledge, has an interest in matters pending before the Town.

D. Conflict of interest.

(1) A conflict of interest exists when:

(a) An Official, Employee or Consultant participates in any contract, transaction, decision, employment or rendering of service that is incompatible with the proper discharge of his or her official responsibilities or would tend to impair his/her independent judgment in the performance of his/her official responsibilities; or

(b) An Official, Employee or Consultant or any member of his/her Immediate Family has a Financial Interest or Personal Interest in the outcome of any matter under consideration before such Official, Employee or Consultant in his or her official capacity; or

(c) An Official, Employee or Consultant accepts employment which will either impair such individual's independence or judgment with regard to such individual's official duties or require such individual to disclose Confidential Information acquired in the course of public duties: or

(d) An Official, Employee or Consultant discloses or uses Confidential Information for the purposes of advancing a financial or personal gain for him or herself or for an Immediate Family Member.

(2) An official, employee or consultant does not have a conflict of interest if the matter involves a determination of general policy and the interest is shared with a substantial segment of the population of the municipality.

(3) **Disclosure**

(a) No Official, Employee or Consultant shall appear on behalf of any private person or party before any Town Agency in connection with any cause, proceeding, application or other matter in which he/she has a Financial Interest or Personal Interest without first disclosing such interest to the Agency, which shall record such disclosure in the record of the Agency's proceeding.

(b) Any Official, Employee or Consultant who has a conflict of interest or believes he/she may have a conflict of interest shall disclose the conflict of interest in writing. Such individual shall submit such written, signed disclosure as soon as practicable, but in no circumstances later than 10 days, as follows:

- For an Official who is a member of an elective or appointive Agency: to the particular Agency of which such Official is a member.
- For Officials and Employees appointed by the Board of Selectmen or the Chief Administrative Officer: to the Board of Selectmen.

- For Board of Education Employees: to the Superintendent of schools.
- For the Board of Selectmen: to the Board of Ethics.
- For a Consultant: to the agent executing the contract on behalf of the Town or the Board of Education.

(c) In addition to the disclosure requirements contained above, each Elected Official or member of an Appointive Agency recusing himself/herself shall, within 10 days of such recusal, notify the Board of Ethics in writing or by email of such recusal.

(4) Disqualification Any Official, Employee or Consultant who has a conflict of interest or who believes he or she may have a conflict of interest shall recuse himself or herself from participating in any matter, transaction or decision. Once an Official, Employee or Consultant has been recused, the individual shall leave the room and/or area where any discussions are occurring regarding such matter that created the conflict of interest.

E. Gifts and Favors

(1) No Official, Employee or Consultant or any member of his/her Immediate Family shall solicit or accept, from any one source during any one year period, a Gift from any person or entity that, to the recipient's knowledge, is interested directly or indirectly, in any manner whatsoever, in any business transactions or matters pending, or anticipated to become pending, before the Town.

(2) No Official, Employee or Consultant or any member of his/her Immediate Family shall request or accept any special favor, consideration or treatment or advantage beyond that which is available to every other person, from any person or entity that, to the recipient's knowledge, is interested directly or indirectly, in any manner whatsoever, in any business transactions or matters pending, or anticipated to become pending, that are within the purview of such prospective recipient's official duties and responsibilities.

(3) For purposes of this section, "matters pending, or anticipated to become pending" include, but are not limited to, applications to an Agency, bids for work to be performed, applications for employment, and bids for the furnishing of supplies, equipment or other items.

(4) If it is impossible or inappropriate for the Official, Employee or Consultant to refuse a Gift, he/she shall promptly turn the Gift over to an appropriate public or charitable institution without claiming a charitable deduction on his/her tax returns.

F. Use of influence

No Official, Employee or Consultant shall use his/her position to seek, demand or influence a Financial Interest or Personal Interest in his/her favor or in favor of any other person or entity.

G. Equal treatment

Officials, Employees and Consultants shall treat each member of the public professionally, courteously, impartially and fairly. No Official, Employee or Consultant shall grant any special favor, consideration, treatment or advantage to any person beyond that which is available to every other citizen of the Town.

H. Representation of private interests

No Official, Employee or Consultant or an agent or employee of such Consultant, whether paid or unpaid, shall represent or advise a private person or entity with respect to a matter that is pending or is expected to be pending in the future before a Town Agency, or in any action or proceeding against the Town's interest, when to do so could reasonably be deemed to conflict with or impair the Official, Employee or Consultant's judgment in the performance of his/her official duties. This prohibition shall continue for a period of one (1) year following the end of service as an Official, Employee or Consultant.

I. Appearances before a Town Agency

No Official or Employee, whether paid or unpaid, shall represent or appear on behalf of any private individual or entity, other than himself/herself, a spouse, domestic partner or minor children, before a Town Agency, or take any appellate proceedings from any action of such Agency, either personally or through an associate or partner, unless there is first a full disclosure in accordance with Section D(3) above and unless, further, the matter or transaction for which he/she is appearing is sufficiently remote from his/her official duties that no conflict of interest exists and the Official or Employee is not in a position to exert improper influence.

J. Fee or Honorarium

No Official, Employee or Consultant shall accept a fee or honorarium for an article, appearance, speech, or for participation at an event, in his or her official capacity.

K. Competitive Bidding

No Official, Employee or Consultant or Business with which such individual is Associated, or member of his/her Immediate Family, shall enter into a contract with the Town unless it is awarded through a process of public notice and competitive bidding

L. Multiple Positions

No Official, Employee or Consultant shall hold two or more positions in Town government, whether paid or unpaid, which have a conflict of interest or have the appearance of a conflict of interest.

M. Distribution of Code

Every Official, Employee and Consultant shall be furnished a copy of the Code within sixty (60) days of the effective date of this ordinance and each such Official, Employee and Consultant shall sign and file with the Board of Selectmen an Acknowledgment /Commitment form. Any Official, Employee or Consultant upon entering the duties of his or her office or employment shall be furnished a copy of the Code within sixty (60) days of the effective date of this ordinance and each such Official, Employee and Consultant shall sign and file with the Board of Selectmen an Acknowledgment/Commitment form. All Officials, Employees and Consultant shall annually sign an acknowledgement form stating that they do not currently have a conflict. The Code will be redistributed to all Officials, Employees and Consultants biannually.

N. Duty to Disclose

All Officials, Employees and Consultants who have knowledge of or believe there to be violations of any provisions of the Code are duty-bound to report those violations to the Board. Such reports shall be in good faith, and the Town in turn guarantees that no reprisals against a reporter of such violations will be taken, provided that such charges are not later proven to have been both malicious and false. All persons against whom such charges have been made will have full access to all the due process protections as established by the Ordinance. Appropriate sanctions may also be given by the Board against any person who is found to have falsely and maliciously charged another with a violation of the Code.

O. Employees who serve on Agency

No Employee serving on an Agency shall participate or vote on any matter involving the Town department or program employing such Employee unless the Town Charter permits such Employee to participate or vote.

Section 4. Board of Ethics

A. Establishment.

(1) There is hereby established a Board of Ethics consisting of five (5) members, no more than two (2) of whom shall be of the same political party. In addition to the regular members, the Board of Selectmen shall appoint two (2) alternate members who shall not be of the same party. It shall require a minimum of three (3) affirmative votes by the Board of Selectmen to approve an appointment to the Board. The two (2) alternate members shall serve in the absence of a regular member on a rotational basis with the same powers and authority as a regular member. The members shall be appointed by the Board of Selectmen and shall serve for a term of four (4) years, except that at the first appointment made by the Board of Selectmen three (3) regular members and one (1) alternate member shall be appointed for two (2) year terms, with the remaining appointments being made for four (4) year terms. No member, regular or alternate, shall serve as a member of any other Town Agency, be an Employee or Consultant or have a contractual relationship with the Town.

(2) No candidate for political office may disseminate information which indicates that a Board member supports his or her candidacy except for legally required disclosures.

(3) Regular and alternate members shall be subject to Town Charter section 6-5(g) related to removal for cause. In addition to the attendance requirements of Town Charter section 6-5(g)(1), "for cause" means the members neglect of duty, misconduct in office, or inability to discharge powers and duties.

B. Organization and procedure.

The Board shall elect a chairman, vice chairman and a secretary and shall establish its own rules and procedures, which shall be available to the public upon request. The vice chairman shall act as chair in the absence of the chairman. The first rules and procedures shall be established within four (4) months of the effective date of the ordinance. The need to maintain confidentiality in order to protect the privacy of public Officials and Employees and citizens shall be considered when establishing the rules and procedures. The Board shall keep records of its meetings and shall hold meetings at the call of the chairperson and at such other times as it may determine.

C. Powers and duties.

(1) Pursuant to a written request on a form prescribed by the Board and signed by an Official, Employee or Consultant, or upon its own initiative, the Board shall render advisory opinions with respect to the applicability of the Code to specific situations. Such Official, Employee or Consultant shall have an opportunity to present his or her interpretation of the facts at issue and the applicable provision or provisions of the Code, as requested by him/her, before such advisory opinion is made.

The Board may require additional information.

(2) The Board shall meet within fifteen (15) days of receipt of all information and shall render its written opinion within thirty (30) days of the meeting, which written opinion shall be sent to the one requesting it and filed with the Town Clerk pursuant to § 4.F.5. of this Ordinance.

(3) The Board of Ethics may also issues guidelines. Such advisory opinions and guidelines, until amended or revoked, shall be binding on the Board of Ethics.

(4) An Official, Employee, or Consultant who in good faith relies on an advisory opinion or guideline shall not be disciplined if such proposed action is thereafter found to be a violation of the Code.

(5) All advisory opinions shall be filed with the Town Clerk, but no such opinion shall be so filed or otherwise made public until deletions as may be necessary have been made to prevent disclosure of the identity of the Official, Employee or Consultant involved, so as to protect the personal privacy of that individual (as defined in Conn. Gen. Stat. § 1-210(b)(2) by the Connecticut Freedom of Information Commission and the courts).

(6) No advisory opinion shall be made except upon the affirmative vote of three (3) Board members.

D. Initiation of complaints; form; investigation of complaints; process; enforcement

(1) No complaint may be made under the Code except within two (2) years after the violation alleged in the complaint has been committed.

(2) The Board shall establish procedures by which the public may initiate complaints alleging a violation of the Code.

(3) The Board shall have the power to hold hearings concerning the application of the Code and its violation, and the Board may administer oaths and compel the attendance of witnesses by subpoena. As required by Conn. Gen. Stat. § 7-148h(a), the provisions of Conn. Gen. Stat. §§ 1-82(a) through (c) shall apply to all investigations and hearings before the Board.

(4) Upon the complaint of any Town resident or upon the majority vote of the Board, the Board shall investigate any alleged violation of the Code to determine whether or not there is probable cause to believe that a violation has occurred.

(5) Any Town resident (complainant) may file a complaint with the Board on a form prescribed by the Board. The complaint shall be signed under penalty of false statement and shall state the name of the person accused (respondent) and the specific acts alleged to constitute the claimed violation(s). Specific acts alleged to constitute the violation(s) of the Code must be stated or the Board will dismiss the complaint. The complainant must sign an acknowledgement, on a form prescribed by the Board, that the complaint and its contents are confidential unless and until the Board makes a finding of probable cause or the respondent requests that they be made public.

(6) The Board shall send written acknowledgement of receipt of the complaint to the complainant within fifteen (15) days of receipt of the complaint. Not later than fifteen (15) days after its receipt of the complaint, the Board shall notify, by registered or certified mail or any manner by which service of process may be made, any respondent against whom such complaint is filed. Upon receipt the respondent may either request a hearing or may submit a written statement as to whether the complaint states a violation. The Board shall set the time for response, which time shall be not less than seven (7) days nor more than thirty (30) days.

(7) If after investigation the Board determines that the complaint does not allege facts sufficient to constitute a violation of the Code, it shall dismiss the complaint. Within three (3) days after the end of its investigation the Board must notify the complainant and respondent of its findings and provide a summary of those findings. The Board shall not be obliged to consider a similar complaint if it determines that such complaint is based upon substantially the same evidence and there has been no material change in circumstances.

(8) If the Board determines that the complaint alleges sufficient facts to state a violation, the Board shall fix a date for the commencement of a hearing on the complaint, which shall not be more than sixty (60) days from the finding of probable cause. The Board shall make public such a finding of probable cause not later than five (5) business days after termination of the investigation. At such time the entire record of the investigation shall become public. The Board shall give notice of the date fixed for the hearing at least fourteen (14) days before the date of the hearing. The hearing may be continued from time to time at the Board's discretion. The hearing shall be open to the public.

(9) At such hearing oral evidence shall be taken under oath. The complainant and the respondent shall have the right to:

- (a) Be represented by legal counsel;
- (b) Present evidence; and
- (c) Examine and cross-examine witnesses.

(10) The hearing shall be recorded by a stenographer or a recording device provided by the Board. If the Board does not provide a stenographer, the complainant or respondent may employ a stenographer at his or her own expense. If a transcript is made, a copy shall be supplied to the Board and another made available to the other party upon payment of one-half

(1/2) of the cost of obtaining the transcript (or, if there is more than one (1) other party, upon payment of the proportionate share of the cost of obtaining the transcript).

(11) No finding of a violation of the Code shall be made except upon the affirmative vote of three (3) Board members.

(12) The Board shall render its findings and memorandum of decision in writing within thirty (30) days after the conclusion of the hearing on the complaint. The Board shall send the complainant and respondent a copy of the findings and memorandum of decision. The Board shall also send a copy to the Board of Selectmen, except with respect to individuals under the jurisdiction of the Board of Education, in which cases the findings and memorandum of decision shall be filed with the Board of Education. In the case of a Consultant, the findings and memorandum of decision shall also be filed with the Agency retaining the Consultant. The Board shall also publish notice of its findings and memorandum of decision on the Town website and with the Town Clerk.

(13) Such findings and memorandum of decision shall constitute the Board's final decision and shall be subject to appeal to the Superior Court in accordance with the provisions of Conn. Gen. Stat. § 4-183 as amended.

E. Penalties.

(1) If the Board determines the respondent has, in fact, violated the provisions of this Code, it shall file a memorandum of decision which shall include a recommendation for action with the Board of Selectmen and the appropriate agency, if any. The authority affected will report back within 30 days to the Board the action taken or lack of action and the reasons therefore. In the case of a Consultant, it shall also be filed with the contracting agency. The recommended action may include:

(a) Reprimand and public censure;

(b) Termination, suspension of compensation for elected positions, or suspension of employment for not more than 90 days without pay;

(c) Termination of contractual status and/or debarment or suspension from being a contractor or subcontractor under Town contracts;

(d) A civil penalty of not more than \$1,000 per violation;

(e) Restitution of any pecuniary benefits received because of the violation committed.

(2) No action may be recommended which would violate the provisions of state or federal law. In the case of union employees, such recommended action does not constitute a unilateral change in conditions of employment. No such recommendation shall limit the authority of the Board of Selectmen under the charter of the town or under any ordinance, statute, or any other law.

(3) Any person who knowingly files a false statement under this Code is subject to criminal prosecution for perjury under the laws of Connecticut.