

**TOWN OF EVANS**  
**PROPOSED LOCAL LAW NO. 2 OF CALENDAR YEAR 2019**

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Section 16: Code of Ethics

1. Replace Section 16: Code of Ethics, to read as follows:

**Chapter 16: Code of Ethics of the Town of Evans**

**§ 16-1. Purpose.**

The Town Board of the Town of Evans recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this Town as part of our state's important system of local government. This code of ethics establishes those standards.

**§ 16-2. Definitions.**

- (a) "Board" means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.
- (b) "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.
- (c) "Municipality" means Town of Evans. The word "municipal" refers to the municipality.
- (d) "Municipal officer or employee" means a paid or unpaid officer or employee of the Town of Evans, including, but not limited to, the members of any municipal board.
- (e) "Relative" means a spouse, child, parent, sibling, or household member of a municipal officer or employee.

### **§ 16-3. Applicability.**

This code of ethics applies to all officers and employees of the Town of Evans.

### **§ 16-4. Standards of Conduct.**

#### **(A) Prohibition on use of Municipal Position for Personal or Private Gain**

No member of the Town Board, 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.

#### **(B) Disclosure of Interest in Legislation and Other Matters.**

(a) To the extent that he or she knows thereof, whenever a matter requiring the exercise of discretion comes before a member of the Town Board, or any officer or employee of the Town of Evans, whether paid or unpaid, 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 the nature of the interest.

#### **(C) Interests in Contracts.**

(1) No municipal officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.

(2) 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.

#### **(D) Nepotism.**

Except as otherwise required by law:

No municipal officer or employee, either individually or as a member of a board, may participate in a decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

No municipal officer or employee who becomes an officer or employee after the effective date of this local law may directly supervise a relative in the performance of the relative's official powers or duties.

### **(E) Investments in Conflict with Official Duties**

An officer or employee shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties.

### **(F) Recusal and Abstention.**

A Town officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may financially benefit the official or employee personally, or a relative, or private organization in which he or she is deemed to have an interest. Whenever a Town officer or employee is required to recuse himself or herself, he or she shall immediately refrain from participating further in the matter.

### **(G) Use of Municipal Resources**

(1) 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.

(2) 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:

- (a) any use of municipal resources authorized by law or municipal policy;
  - (b) 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
  - (c) 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.
- (d) 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.

### **(H) Political Solicitations**

(1) No municipal officer or employee shall directly or indirectly 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.

(2) 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.

**(I) 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.

**(J) Gifts**

A Town official or employee shall not directly or indirectly solicit any gift; or accept or receive any gift having a value of seventy-five dollars (\$75) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could be reasonably be inferred that the gift was intended to influence him or her in the performance of official duties or was intended as a reward for any official action on his or her part.

**(K) Private employment in conflict with official duties.**

No Town official or employee, during his or her tenure as a Town official or employee, may engage in private employment, when the employment can be reasonably expected to require more than sporadic recusal and abstention.

**(L) Future employment**

No Town official or employee, for a period of two years after completion of his or her service or employment with the Town, shall accept employment which will involve contacts with the Town which can work to his or her special advantage by virtue of his or her prior contact and relationship with the Town.

**(M) 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.

**§ 16-5. Prohibition inapplicable; disclosure, recusal and abstention not required.**

(a) This code's prohibition on use of a municipal position, disclosure requirements, and requirements relating to recusal and abstention, 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 this code;

(2) which comes before a municipal officer when the officer would be prohibited from acting by this code and the matter cannot be lawfully delegated to another person.

#### **§ 16-6. Board of Ethics**

(a) There is hereby established a board of ethics for the municipality. The board of ethics shall render advisory opinions to the officers and employees of the Town of Evans 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. 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 of Evans.

(b) The board of ethics shall consist of five members, plus one alternate member, a majority of whom shall not be officers or employees of the municipality. The members of such board of ethics shall be appointed by the Town Board of the Town of Evans, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the board of ethics. The Town Attorney shall be a nonvoting, ex-officio member of the Board of Ethics, and upon request of the Board shall render advice and help in rendering advisory opinions.

#### **§ 16-7. Posting and Distribution**

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every person who is or becomes an officer or employee of the Town of Evans. Failure to distribute any such copy or failure of any Town official or employee to receive such copy shall have no effect on the duty of compliance with this code, nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept

posted conspicuously in each public building under the jurisdiction of the Town. Failure to so post this chapter, or an amendment thereof, shall have no effect on the duty of compliance herewith, nor the enforcement provisions hereof.

**§ 16-8. Enforcement/Penalties**

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

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