

VILLAGE OF
MILLBROOK
CODE OF ETHICS



Adopted: April 9, 2013

Chapter 15: ETHICS CODE of the VILLAGE OF MILLBROOK

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

WHEREAS, 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 for the guidance of its officers and employees standards of conduct reasonably expected of them, and

WHEREAS, Section 806 of the General Municipal Law also authorizes the governing body of any other municipality to adopt such a Code of Ethics, and

WHEREAS, 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, and

WHEREAS, this Code of Ethics fully replaces and supersedes the existing Code of Ethics in Chapter 15 of the Village of Millbrook code as adopted on December 18, 1990.

NOW, THEREFORE, be it resolved that the Board of Trustees of the Village of Millbrook hereby adopts a Code of Ethics to read as follows:

Chapter 15: ETHICS CODE of the VILLAGE OF MILLBROOK

15-1. Purpose and Intent.

Pursuant to the provisions of Section 806 of the General Municipal Law, the Board of Trustees of the Village of Millbrook 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 our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officials and employees of the Village of Millbrook. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other special law relating to ethical conduct and interest in contracts of municipal officers and employees.

15-2. Definitions.

When used in this chapter and unless otherwise expressly stated or unless the context otherwise requires, the following terms shall have the meanings indicated:

- (a) **“Board”** means the Village of Millbrook Board of Trustees and any other Village administrative boards such as the Millbrook Village Planning Board, Millbrook Village Zoning Board of Appeals or any other agency or body comprised of two or more Village officers or employees.
- (b) **“Chief Fiscal Officer”** is the Village Treasurer with oversight by the Elected Board of Trustees.
- (c) **“Code”** means this code of ethics.
- (d) **“Contract”** means any claim, account or demand against or agreement with a municipality, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law.
- (e) **“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.
- (f) **“Interest”** means a direct or indirect financial 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 Village of Millbrook or a lawful class of such residents or taxpayers.
- (g) **“Municipality”** means the Village of Millbrook. The word municipal refers to the municipality.
- (h) **“Municipal Officer or Employee”** means a paid or unpaid officer or employee of the Village of Millbrook, including but not limited to the members of any municipal board, commission or other agency thereof.
- (i) **“Relative”** means a spouse, parent, step-parent, sibling, sibling’s spouse, 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 of the officer or employee.

15-3. Applicability

This code of ethics applies to the officers and employees of the Village of Millbrook, 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 Village of Millbrook.

15-4. 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.

15-5. 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.

15-6. 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 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.

15-7. Prohibition inapplicable; disclosure, recusal and abstention not required.

(a) This code's prohibition on use of municipal position (Section 15-4), disclosure required (Section 15-5), and requirements relating to recusal and abstention (Section 15-6), shall not apply in 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 15-6 of this code;

(2) Which comes before a municipal officer when the officer would be prohibited from acting by Section 15-6 of this code and the matter cannot be lawfully delegated to another person.

15-8. 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 15-6 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.

15-9. Private employment in conflict with official duties.

No municipal officer or employee, during his 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 15-6 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.

15-10. 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.

15-11. 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.

15-12. 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.

15-13. Interest 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.

15-14. Nepotism.

Except as otherwise required by law:

- (a) 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.
- (b) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

15-15. Political Solicitations.

- (a) 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.
- (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.

15-16. 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.

15-17. Gifts.

- (a) No municipal official 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 accept or receive any gift having an annual aggregate value of seventy five dollars or more.
- (c) This section does not prohibit gifts on special occasions, such as marriage, illness, or retirement which follow this section's guidelines.
- (d) This section does not apply to unsolicited advertising or promotional materials such as pens, note pads, and calendars.
- (e) This section does not apply to meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job related professional or educational conference and the meals and refreshments are made available to all participants.

15-18. Board of Ethics.

For the purpose of carrying out the provisions and intent of the Village of Millbrook Code of Ethics, there is hereby established a Board of Ethics consisting of three members to be appointed by the Village of Millbrook Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the Village of Millbrook but shall include one member who is an elected or appointed officer or employee of the Village of Millbrook.

Board of Ethics-Jurisdiction; powers; and duties

- (a) The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law.

- (b) The Board of Ethics may act only with respect to officers and employees of the Village of Millbrook.
- (c) The Board of Ethics will review, index and maintain on file a list of employees and disclosure statements filed with the Ethics Board pursuant with this Ethics Code.
- (d) The Board of Ethics shall render advisory opinions in writing to officers and employees of the Village of Millbrook upon written request with regard to his or her affairs.
- (e) Unless specifically requested by an individual charged with a violation of the Code of Ethics or the party requesting an advisory opinion, said opinions shall not be made public or disclosed unless required by the Freedom of Information Law, pursuant to judicial subpoena or required for a disciplinary proceeding involving an officer or employee.
- (f) The Board of Ethics may make recommendations to the Village of Millbrook Board of Trustees with respect to the drafting and adoption of amendments to the Village of Millbrook Code of Ethics.

Board of Ethics-Complaints; Disposition of Potential Violations of the Ethics Code

- (a) All sworn complaints lodged by citizens alleging a violation of the Village of Millbrook Code of Ethics must be submitted in writing, include the signed name and address of the complainant and be stamped by a notary public. This sworn complaint should be given to the Village Clerk who will refer the complaint to the Village Board.
- (b) The written complaint will be forwarded to the Board of Ethics. The Board of Ethics shall initiate a hearing providing for the due process procedural mechanisms and subject to any applicable provisions of law to determine as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made by a majority of the Board of Ethics that no violation has occurred, the Board of Ethics shall notify the complainant of its determination in writing. The Board of Ethics shall have the services of the Village Attorney available in order to make their determination.
- (c) If the determination is made by the majority of the Board of Ethics that an alleged violation has occurred, the Board of Ethics shall notify in writing the person against whom the complaint is made, the nature of the complaint, and the provision of the Code of Ethics allegedly violated. A written report of the findings of the review by the Board of Ethics and their recommendations shall be forwarded to the Village of Millbrook Board of Trustees.
- (d) The Village of Millbrook Board of Trustees upon receipt of this report will hold a proceeding to determine the appropriate disposition of the complaint. The matter may be turned over to an appropriate prosecutor if the Village of Millbrook Board of Trustees feels further action that is beyond their proceeding is necessary. Any officer or employee who engages in any action that violates any provision of the Code of Ethics may be warned, reprimanded, suspended, fined or removed from employment, by the Village of Millbrook Board of Trustees or subject to any other sanction authorized by law or collective bargaining agreement.

15-19. Posting and distribution.

- (a) The Village of Millbrook must 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 Mayor of the Village of Millbrook 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 Village of Millbrook.
- (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 Village Clerk 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.

15.20. Disclosure required.

(a) Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or Official Map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of the Village of Millbrook including Chapters 201, Subdivision of Land, and 230, Zoning, shall state the name, residence and the nature and extent of the interest of any officer or employee of the Village, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

(b) For the purpose of this section, an officer or employee shall be deemed to have an interest in the applicant when he or she, his or her spouse or their brothers, sisters, parents, children, grandchildren or the spouse of any of them:

- (1) Is the applicant;
- (2) Is an officer, director, partner or employee of the applicant;
- (3) Legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or
- (4) Is a party to an agreement with such an applicant, expressed or implied, whereby he or she may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.

(c) Ownership of less than 5% of the stock of a corporation whose stock is listed on any Stock Exchange shall not constitute an interest for the purposes of this section.

(d) A person who knowingly and intentionally violates this section shall be guilty of a violation.

15.21. Enforcement.

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

15.22. Effective date.

This code takes effect April 9, 2013.