

**Chapter 13**

**ETHICS, CODE OF**

**§ 13-1. Legislative authority; findings; purpose.**

**§ 13-2. Definitions.**

**§ 13-3. Standards of conduct.**

**§ 13-4. Board of Ethics.**

**§ 13-5. Judicial review.**

**§ 13-6. Distribution and posting.**

**[HISTORY: Adopted by the Town Board of the Town of Marlborough 1-12-2009 by L.L. No. 1-2009.<sup>1</sup> Amendments noted where applicable.]**

**GENERAL REFERENCES**

Communications policy — See Ch. 7.

Defense and indemnification — See Ch. 9.

Officers and employees — See Ch. 26.

Personnel policies — See Ch. 29.

**§ 13-1. Legislative authority; findings; purpose.**

- A. This chapter is enacted pursuant to Article 18, § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.
- B. Public officers and employees are agents of the public good, hold office for the benefit of the public and must ensure that they avoid circumstances that compromise their ability to make impartial judgments solely in the public interest.
- C. The purposes of the chapter are to:
  - (1) Establish standards of ethical conduct for all officers and employees of the Town;
  - (2) Provide officers and employees of the Town, whether elected or appointed, paid or volunteer, with clear guidance on such standards;
  - (3) Promote public confidence and integrity in the agencies and administrative offices of our local government;
  - (4) Facilitate the consideration of potential ethical problems before they arise, to minimize any appearance of impropriety and to enhance the accountability of government to the people by requiring public disclosure of interests that may influence or be perceived to influence the actions of Town officers and employees;
  - (5) Provide for the fair and effective administration of this chapter.

**1. Editor's Note: This local law also superseded former Ch. 13, Ethics, Code of, adopted 3-28-1977 by L.L. No. 3-1977 as Ch. 10 of the 1976 Code of the Town of Marlborough, as amended.**

**§ 13-2. Definitions.**

Unless otherwise stated or unless the context requires, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

**APPEAR and APPEAR BEFORE** — Communications in any form without limitation.

**CONFIDENTIAL INFORMATION** — Any information which by law or practice is not available to the public.

**CONFLICT OF INTEREST** — When an officer or employee has a duty or obligation to, or has an involvement with, a party other than the Town (which may be him- or herself) and such duty, obligation or involvement compromises his or her ability to make decisions solely in the public interest. This includes, but is not limited to, conflicts of interest prescribed under Article 18 of the General Municipal Law.

**CONTRACT** — Any claim, account or demand against, or agreement with, the Town, express or implied.

**IMMEDIATE FAMILY MEMBER** — Grandparents, parents, spouse, significant other, children, grandchildren, brothers, sisters, dependents or any household members of a Town officer, Town board member, or Town employee. (See "Town officer or employee.")

**INTEREST** — A participation, connection or involvement of any sort whether direct or indirect, pecuniary or nonpecuniary, personal or professional, which may result in a benefit. For the purposes of this chapter, the "interests" of a Town officer or employee shall be deemed to include the interest of:

- A. An immediate family member as defined herein above.
- B. Any person other than a bank, trust company or other lending institution with whom he/she has a substantial debtor-creditor or other financial relationship.
- C. Any person by whom he/she is employed or of which he/she is an officer, director or member having a controlling interest in any business or enterprise in which the Town officer holds stock or has any other profit-bearing or beneficial relationship.
- D. An officer or employee shall also be deemed to have an interest in a matter if he/she or any person described in A through C above is a party to an agreement, expressed or implied, with any applicant before any Board of the Town, whereby he/she may receive any payment or other benefit whether or not for services rendered, dependent or contingent upon the favorable approval of any such application, petition or request by any Town body.

**MINISTERIAL ACT** — An action performed in a prescribed manner that does not allow for the exercise of personal discretion. See New York Public Officers Law § 73.

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**TOWN OFFICER OR EMPLOYEE** — ("Municipal Officer or Employee") shall include any officer or employee of the Town of Marlborough ("Town") paid by the municipality, elected or appointed, and includes without limitation all members of any office, board, body, advisory board, council, commission, department, division, bureau, district of the Town. **[Amended 7-12-2010 by L.L. No. 6-2010]**

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- A. **General prohibition/conflict of interest.** No Town officer or employee shall have any interest, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in conflict with, or might reasonably tend to conflict with, the proper discharge of his or her duties in the public interest.
- B. **Recusal.**
  - (1) Town officers and employees who have decision-making authority directly on the matter in question are to recuse themselves as appropriate and/or required when their interests, as defined herein and in Subsection A above, could affect their ability to act impartially or create an appearance of impropriety. Such interests must be disclosed in writing in accordance with this chapter. Town officers and employees are reminded that it is not necessary that a specific provision of the General Municipal Law or chapter be violated for a conflict of interest to exist and that the Town of Marlborough may prohibit conflicts other than those prohibited by the General Municipal Law in an effort to maintain public confidence in the Town.
  - (2) Town officers or employees who recuse themselves may not actively participate in deliberations or voting. Such officers or employees may be excluded from discussions in executive session as permitted by law.
- C. **Gifts.** No Town officer or employee shall accept any gift of \$50 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, from any person, firm or corporation which is interested directly or indirectly, in any manner whatsoever, in business dealings with the Town or under circumstances in which it could reasonably be 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 from any one person as defined in this Code. No Town officer or employee shall, in the discharge of his or her duties, grant any improper favor, service or material object of value. Nothing contained herein shall be deemed to prohibit any Town officer or employee from personally borrowing money from any bank or banks

designated as depositories by the Town Board. The fifty-dollar limit applies to an aggregate total of gifts made over a period of 12 months from any one person as defined in this Code.

- D. Disclosure of confidential information. No Town officer or employee or former Town officer or employee shall disclose any confidential information acquired by him/her in the course of exercising his/her official duties or use such information to further his or her personal interests.
- E. Representation and appearance. No Town officer or employee shall represent or appear to further his or her interests before any board, department, committee, office or agency of the Town, nor represent or appear to further his or her interest, as defined herein and in Subsection A above, in any action, petition, request or proceeding against the interests of the Town or in any litigation to which the Town is a party. The preceding sentence shall not preclude any such Town officers or employees from appearing before any board, department, committee, office or other agency of the Town in the performance of public or civic obligations or on their own behalf with respect to matters of a personal nature. All appearing Town officers or employees shall disclose their interest in writing as provided below. In addition, every application, 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 Planning and Zoning Regulations of the Town, in which a Town officer or employee has an interest as defined herein and in Subsection A above shall state the name, residence and the nature and extent of the interest of any Town officer or employee to the extent known to such applicant.
- F. Disclosure of interest. If any Town officer or employee has a potential or actual conflict of interest in any matter which he/she encounters in the performance of his or her official Town duties, he/she shall immediately make known to all concerned parties the nature of such conflict and shall abstain from voting or otherwise acting in the matter so as to avoid an actual conflict. In all cases of a potential or actual conflict, the affected Town officer or employee appearing before a decision-making body of the Town shall disclose the exact nature of the conflict in writing to the decision-making body of the Town that the officer or employee serves. This disclosure shall be made part of that decision-making body's official record, disclosing the exact nature of the conflict in detail.
- G. Private employment. No Town officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.
- H. Future employment. For a period of one year after his/her term of office or employment with the Town has ended, no former Town officer or employee shall appear, practice or personally represent before any board or agency of the town in relation to any case, proceeding or application in which he or she participated or considered while in the course of discharging his/her official duties during the period of his or her service or employment. Notwithstanding this section, a former Town officer or employee may

appear before any board or agency of the Town with respect to matters of a personal nature. **[Amended 7-12-2010 by L.L. No. 6-2010]**

I. Nepotism:

- (1) Every Town officer and employee related closer in degree, by blood or by marriage, than first cousin to any person(s) seeking employment within any department, section or function of the Town shall disclose such relationship as provided for pursuant to Subsection I(3).
- (2) Every member of any Town municipal board, agency, commission or other municipal body (exclusive of committees) related closer in degree, by blood or by marriage, than first cousin to any applicant for appointment to or to any person seeking employment by or on behalf of such Town board, agency, commission or other municipal body (exclusive of committees) shall disclose such relationship as provided for pursuant to Subsection I(3).
- (3) The disclosures required by this section shall be made in writing, directed to the Town Clerk, and shall be made at the earliest opportunity next following the date when such Town officer, employee or member of any municipal body first learns or acquires knowledge of the application for such appointment and/or employment.

J. Avoidance of conflicts. No Town officer and employee shall knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would create a conflict of interest with respect to their duties with the Town.

K. Inducement of others. No Town officer or employee shall induce or aid another Town officer or employee to violate any of the provisions of the chapter.

L. Use of public property. No Town officer or employee shall request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit except when provided with the primary purpose of furthering a public interest approved by the Town Board. Notwithstanding this section, a Town employee or officer may request to use Town property that has been authorized by the Town Board for use by the general public.

M. Waiver. A Town officer or employee may apply for a waiver of any of these standards upon showing of compelling need. A waiver request form, created by the Ethics Board will be available from the Town Clerk or the Ethics Board chair, and may be modified by the Ethics Board from time to time as deemed necessary. However, no such waivers shall be granted if doing so would contravene any state or local law.

**§ 13-4. Board of Ethics.**

A. Establishment.

- (1) A Board of Ethics composed of five members is hereby established, pursuant to § 808 of the General Municipal Law. The members shall be appointed by the Town Board, the majority of whom are not otherwise officers or employees of the

Town. Such board shall include at least one member who is a municipal employee.  
**[Amended 7-12-2010 by L.L. No. 6-2010]**

- (2) The term of office shall be three years, running on a calendar-year basis. One member shall serve until December 31 of the year in which the Board is established; two shall serve until December 31 of the following year and two shall serve until December 31 of the third year.
- (3) Support staff and operating funds may be appropriated annually by the Town Board for the Ethics Board's maintenance and operation.
- (4) The Town Attorney or Attorney for the Town shall provide legal and advisory services to the Ethics Board as it may require in the performance of its duties. If the Town Attorney or Attorney for the Town has a potential conflict of interest, the Town shall make funds available for outside counsel. The Ethics Board shall be given access to other advisory services as needed from both the Town officials and outside resources.
- (5) Members shall serve without compensation and will be reimbursed for all reasonable and necessary expenses, provided they receive prior approval for such spending from the Town Board.
- (6) The Ethics Board shall elect a Chair from among its members. The Chair or a majority of the Board may call a meeting of the Board. The Ethics Board shall meet a minimum of two times a year.
- (7) A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.
- (8) The Town Board shall have the authority to remove, after a public hearing, any member of the Board of Ethics for cause.
- (9) Three members of the Board are required for the purpose of conducting a meeting.  
**[Amended 7-12-2010 by L.L. No. 6-2010]**

B. Qualifications.

- (1) All members of the Ethics Board shall reside in the Town of Marlborough.
- (2) No more than two members of the Ethics Board may be enrolled in the same political party. No member shall hold office in a political party or hold any local elective office.
- (3) A member may make campaign contributions but not otherwise participate in any Town election campaign.
- (4) Consecutive service on the Ethics Board shall not exceed two full three-year terms.

C. Powers and duties. The Ethics Board in accordance with § 808 of the General Municipal Law and § 10 of the Municipal Home Rule Law shall have the following powers and duties:

- (1) To enforce the provisions of this chapter and recommend penalties appropriate for violations thereof;
  - (2) To recommend to the Town Board rules and regulations governing its own organization and procedures;
  - (3) To review, index and maintain on file and hear all signed complaints which the Board determines to have merit alleging violation(s) of this chapter upon the written request of any individual. Any such complaint shall be signed by the individual filing the complaint, including his/her address and telephone numbers, and mailed to the Town of Marlborough Board of Ethics, P.O. Box 305, Milton, New York 12547. The Board of Ethics may, on its own motion, conduct an inquiry of a Town officer or employee's alleged noncompliance with the provisions of the Code of Ethics upon receipt of substantial evidence, including, but not limited to, documents, written material, or other forms of proof. The Board of Ethics shall also have the power to initiate complaints as a result of information discovered during the course of its duties;
  - (4) To render, index and maintain on file advisory opinions on the requirements of this chapter. Upon the written request of any Town officer or employee, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this chapter or Article 18 of the General Municipal Law of the State of New York;
  - (5) To prepare and submit an annual report to the Town Board summarizing the activities of the Ethics Board listing recommended changes to the text or administration of this chapter;
  - (6) The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by applicable law(s) and/or regulations;
  - (7) Except as required by law or regulation, no meeting or proceeding of the Ethics Board concerning misconduct, or neglect in office by a Town officer or employee shall be open to the public, except upon the request of the officer or employee under investigation;
  - (8) To make recommendations to the Town Board as to the appropriate sanction, discipline or other action to be taken or imposed with respect to any finding or determination of reasonable cause to believe that a violation of this chapter has occurred;
  - (9) The Ethics Board shall not carry out the powers and duties as defined in this section if it is determined that more than one of such Board has a conflict of interest. In this event, the duties of the Ethics Board shall be administered by the Ethics Board of Ulster County;
- D. In its discretion, after an investigation and/or hearing and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend that disciplinary action be carried out regarding any Town officer or employee who engages in any activity for whom the Board of Ethics has determined that

a Town officer or employee violated this chapter or Article 18 of the General Municipal Law;

- E. Hearing procedure and representation. The Board shall have the authority to administer oaths or affirmations, to take proof, and issue subpoenas for the production of witnesses, documents or other material evidence. The Town Counsel will assist the Board in the preparation and issuance of subpoena(s). Any person compelled to appear in person or who voluntarily appears before the Ethics Board shall be accorded the right to be accompanied; represented by and/or advised by counsel and shall receive a copy of the transcript of his or her testimony, if any, at no cost. Ample notice will be required to have the Town Attorney present.
- F. Receipt and investigation of complaints.
- (1) Any person may file a written sworn complaint with the Ethics Board which must include the individual complainant's address and telephone numbers, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).
  - (2) Upon receipt of said sworn complaint, the Board of Ethics shall forward the complaint to the person who is the subject of the complaint and the Town Counsel for possible consultation.
  - (3) Upon the receipt of a sworn complaint by any person alleging any violation of this chapter or of any local ethics law, or upon determining on its own initiative that a violation of this chapter or of any local ethics act may exist. The Ethics Board shall have the power and duty to conduct any investigation including holding a hearing if necessary to carry out the provision of this chapter.
  - (4) After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:
    - (a) The members of the Board of Ethics may obtain legal advice from the Town Counsel or special counsel as the case may be; and
    - (b) The members of the Board of Ethics may discuss the complaint among themselves; and
    - (c) If any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.
- G. At the conclusion of its investigation and/or hearing on said complaint, the Board of Ethics shall state in writing its advisory opinion or disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. Upon the final disposition of a complaint, the Ethics Board shall furnish the filer of the complaint, the subject of the complaint, the Town Counsel and the Town

Board a copy of its advisory opinion or disposition, and all such statements and all sworn complaints shall be public records and shall be indexed and maintained on file by the Town Ethics Board. Prior to final disposition, all complaints, statements or other evidence shall remain confidential.

- H. All actions, decisions, and recommendations of the Board of Ethics shall be by majority vote of the entire membership.
- I. The Town of Marlborough Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18 of the General Municipal Law of the State of New York.
- J. Discussions held in Executive Session shall remain confidential and will only address the specific complaint before them.
- K. The members of the Board of Ethics shall have the right to obtain opinions from qualified people other than themselves provided that the majority of the members of the Board of Ethics agree with such a course of action and the names of the individuals involved in the complaint are withheld.
- L. Members of the Board of Ethics have no authority to make public statements regarding Board of Ethics proceedings except to indicate that no such statements will be made.

#### **§ 13-5. Judicial review.**

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

#### **§ 13-6. Distribution and posting.**

Copies of the Code shall be available to the public and posted in each of the Town's buildings in a place conspicuous to the Town's officers and employees. The Town Supervisor shall ensure that a copy of the Code of Ethics is provided to each Town officer and employee of the Town. However, the failure to so distribute or post the Code of Ethics shall have no effect on the duty to comply with this chapter, the Public Officers Law, or the General Municipal Law.



Marlborough 73

January 12, 2009

). Resolution # 30 To adopt Local Law #1 of the year 2009 Code of Ethics

Supervisor Lanzetta proposes the following

**WHEREAS**, proposed Introductory Local Law No. 1 of 2009 entitled "Code of Ethics" was presented and introduced at a duly held meeting of the Town Board of the Town of Marlborough ("Town Board") on December 22, 2008; and

**WHEREAS**, a duly convened public hearing was held on January 12, 2009 to solicit public comment on the proposed Introductory Local Law; and

**WHEREAS**, the Town Board was presented with the Local law in final form in conformance with Municipal Home Rule Law Section 20; and

**WHEREAS**, the Town Board has determined that the adoption of the proposed Introductory Local Law under Article 8 of the New York State Environmental Conservation Law, is classified as a Type II Action.

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Marlborough hereby adopts the proposed Introductory Local Law No. 1 of 2009 entitled "Code of Ethics" as Local Law No 1-2009 of 2009 ("Local Law"); and as revised

**BE IT FURTHER RESOLVED**, that the Town Clerk is directed to file the Local Law with the Secretary of State within twenty (20) days of the Town Board resolution adopting this Local Law.

And moves for its adoption;

Councilman Affuso	ABSENT	Motion made by Supervisor Lanzetta to amend resolution
Councilwoman Biggin	ABSENT	#30 to include as revised to paragraph 5. Motion second
Councilman Molinelli	YES	Councilman Molinelli.
Councilwoman Simonofsky	YES	YEAS: 3 NOES: 0 CARRIED
Supervisor Lanzetta	YES	



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I. Nepotism:

- (1) Every Town officer and employee related closer in degree, by blood or by marriage, than first cousin to any person(s) seeking employment within any department, section or function of the Town shall disclose such relationship as provided for pursuant to Subsection I(3).
- (2) Every member of any Town municipal board, agency, commission or other municipal body (exclusive of committees) related closer in degree, by blood or by marriage, than first cousin to any applicant for appointment to or to any person seeking employment by or on behalf of such Town board, agency, commission or other municipal body (exclusive of committees) shall disclose such relationship as provided for pursuant to Subsection I(3).
- (3) The disclosures required by this section shall be made in writing, directed to the Town Clerk, and shall be made at the earliest opportunity next following the date when such Town officer, employee or member of any municipal body first learns or acquires knowledge of the application for such appointment and/or employment.

J. Avoidance of conflicts. No Town officer and employee shall knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would create a conflict of interest with respect to their duties with the Town.

K. Inducement of others. No Town officer or employee shall induce or aid another Town officer or employee to violate any of the provisions of the chapter.

L. Use of public property. No Town officer or employee shall request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit except when provided with the primary purpose of furthering a public interest approved by the Town Board. Notwithstanding this section, a Town employee or officer may request to use Town property that has been authorized by the Town Board for use by the general public.

M. Waiver. A Town officer or employee may apply for a waiver of any of these standards upon showing of compelling need. A waiver request form, created by the Ethics Board will be available from the Town Clerk or the Ethics Board chair, and may be modified by the Ethics Board from time to time as deemed necessary. However, no such waivers shall be granted if doing so would contravene any state or local law.

**§ 13-4. Board of Ethics.**

A. Establishment.

- (1) A Board of Ethics composed of five members is hereby established, pursuant to § 808 of the General Municipal Law. The members shall be appointed by the Town Board, the majority of whom are not otherwise officers or employees of the

Town. Such board shall include at least one member who is a municipal employee.  
[Amended 7-12-2010 by L.L. No. 6-2010]

- (2) The term of office shall be three years, running on a calendar-year basis. One member shall serve until December 31 of the year in which the Board is established; two shall serve until December 31 of the following year and two shall serve until December 31 of the third year.
- (3) Support staff and operating funds may be appropriated annually by the Town Board for the Ethics Board's maintenance and operation.
- (4) The Town Attorney or Attorney for the Town shall provide legal and advisory services to the Ethics Board as it may require in the performance of its duties. If the Town Attorney or Attorney for the Town has a potential conflict of interest, the Town shall make funds available for outside counsel. The Ethics Board shall be given access to other advisory services as needed from both the Town officials and outside resources.
- (5) Members shall serve without compensation and will be reimbursed for all reasonable and necessary expenses, provided they receive prior approval for such spending from the Town Board.
- (6) The Ethics Board shall elect a Chair from among its members. The Chair or a majority of the Board may call a meeting of the Board. The Ethics Board shall meet a minimum of two times a year.
- (7) A person appointed to fill a vacancy shall serve the unexpired term of the member he/she replaces.
- (8) The Town Board shall have the authority to remove, after a public hearing, any member of the Board of Ethics for cause.
- (9) Three members of the Board are required for the purpose of conducting a meeting.  
[Amended 7-12-2010 by L.L. No. 6-2010]

B. Qualifications.

- (1) All members of the Ethics Board shall reside in the Town of Marlborough.
- (2) No more than two members of the Ethics Board may be enrolled in the same political party. No member shall hold office in a political party or hold any local elective office.
- (3) A member may make campaign contributions but not otherwise participate in any Town election campaign.
- (4) Consecutive service on the Ethics Board shall not exceed two full three-year terms.

C. Powers and duties. The Ethics Board in accordance with § 808 of the General Municipal Law and § 10 of the Municipal Home Rule Law shall have the following powers and duties:

- (1) To enforce the provisions of this chapter and recommend penalties appropriate for violations thereof;
  - (2) To recommend to the Town Board rules and regulations governing its own organization and procedures;
  - (3) To review, index and maintain on file and hear all signed complaints which the Board determines to have merit alleging violation(s) of this chapter upon the written request of any individual. Any such complaint shall be signed by the individual filing the complaint, including his/her address and telephone numbers, and mailed to the Town of Marlborough Board of Ethics, P.O. Box 305, Milton, New York 12547. The Board of Ethics may, on its own motion, conduct an inquiry of a Town officer or employee's alleged noncompliance with the provisions of the Code of Ethics upon receipt of substantial evidence, including, but not limited to, documents, written material, or other forms of proof. The Board of Ethics shall also have the power to initiate complaints as a result of information discovered during the course of its duties;
  - (4) To render, index and maintain on file advisory opinions on the requirements of this chapter. Upon the written request of any Town officer or employee, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this chapter or Article 18 of the General Municipal Law of the State of New York;
  - (5) To prepare and submit an annual report to the Town Board summarizing the activities of the Ethics Board listing recommended changes to the text or administration of this chapter;
  - (6) The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by applicable law(s) and/or regulations;
  - (7) Except as required by law or regulation, no meeting or proceeding of the Ethics Board concerning misconduct, or neglect in office by a Town officer or employee shall be open to the public, except upon the request of the officer or employee under investigation;
  - (8) To make recommendations to the Town Board as to the appropriate sanction, discipline or other action to be taken or imposed with respect to any finding or determination of reasonable cause to believe that a violation of this chapter has occurred;
  - (9) The Ethics Board shall not carry out the powers and duties as defined in this section if it is determined that more than one of such Board has a conflict of interest. In this event, the duties of the Ethics Board shall be administered by the Ethics Board of Ulster County;
- D. In its discretion, after an investigation and/or hearing and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend that disciplinary action be carried out regarding any Town officer or employee who engages in any activity for whom the Board of Ethics has determined that

- a Town officer or employee violated this chapter or Article 18 of the General Municipal Law;
- E. Hearing procedure and representation. The Board shall have the authority to administer oaths or affirmations, to take proof, and issue subpoenas for the production of witnesses, documents or other material evidence. The Town Counsel will assist the Board in the preparation and issuance of subpoena(s). Any person compelled to appear in person or who voluntarily appears before the Ethics Board shall be accorded the right to be accompanied; represented by and/or advised by counsel and shall receive a copy of the transcript of his or her testimony, if any, at no cost. Ample notice will be required to have the Town Attorney present.
- F. Receipt and investigation of complaints.
- (1) Any person may file a written sworn complaint with the Ethics Board which must include the individual complainant's address and telephone numbers, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).
  - (2) Upon receipt of said sworn complaint, the Board of Ethics shall forward the complaint to the person who is the subject of the complaint and the Town Counsel for possible consultation.
  - (3) Upon the receipt of a sworn complaint by any person alleging any violation of this chapter or of any local ethics law, or upon determining on its own initiative that a violation of this chapter or of any local ethics act may exist. The Ethics Board shall have the power and duty to conduct any investigation including holding a hearing if necessary to carry out the provision of this chapter.
  - (4) After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:
    - (a) The members of the Board of Ethics may obtain legal advice from the Town Counsel or special counsel as the case may be; and
    - (b) The members of the Board of Ethics may discuss the complaint among themselves; and
    - (c) If any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.
- G. At the conclusion of its investigation and/or hearing on said complaint, the Board of Ethics shall state in writing its advisory opinion or disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. Upon the final disposition of a complaint, the Ethics Board shall furnish the filer of the complaint, the subject of the complaint, the Town Counsel and the Town

- Board a copy of its advisory opinion or disposition, and all such statements and all sworn complaints shall be public records and shall be indexed and maintained on file by the Town Ethics Board. Prior to final disposition, all complaints, statements or other evidence shall remain confidential.
- H. All actions, decisions, and recommendations of the Board of Ethics shall be by majority vote of the entire membership.
  - I. The Town of Marlborough Board of Ethics shall have such other powers and duties as shall be provided by or pursuant to Article 18 of the General Municipal Law of the State of New York.
  - J. Discussions held in Executive Session shall remain confidential and will only address the specific complaint before them.
  - K. The members of the Board of Ethics shall have the right to obtain opinions from qualified people other than themselves provided that the majority of the members of the Board of Ethics agree with such a course of action and the names of the individuals involved in the complaint are withheld.
  - L. Members of the Board of Ethics have no authority to make public statements regarding Board of Ethics proceedings except to indicate that no such statements will be made.

**§ 13-5. Judicial review.**

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

**§ 13-6. Distribution and posting.**

Copies of the Code shall be available to the public and posted in each of the Town's buildings in a place conspicuous to the Town's officers and employees. The Town Supervisor shall ensure that a copy of the Code of Ethics is provided to each Town officer and employee of the Town. However, the failure to so distribute or post the Code of Ethics shall have no effect on the duty to comply with this chapter, the Public Officers Law, or the General Municipal Law.

