

Chapter 24

Ethics, Code of

§ 24-1 Purpose; Statutory Authority

Pursuant to the provisions of Article 18, § 806, of the New York State General Municipal Law, the Town Board of the Town of Marbletown recognizes that there are rules of ethical conduct for public officers and employees (TO/TE) which must be observed if a high degree of ethical conduct is to be obtained and public confidence is to be maintained in all aspects of local government.

The Town Board has adopted these rules of ethical conduct. These rules shall not conflict with, but shall be in addition to, any prohibition or section of Article 18 of the New York State General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 24-2 Definitions

As used in this Code of Ethics, the following terms shall have the meanings indicated below:

Board: The governing board of a municipality and any municipal administrative board, commission or other agency. This includes the Town Board, administrative boards, town commissions and boards or other agencies, whether the members are elected, appointed or are volunteers.

Town Official (TO/TE): An officer or employee of the Town of Marbletown, whether paid or unpaid, including members of any administrative boards, town commissions and boards or other agency, whether the members are appointed or are volunteers.

Disclosure: Submitting in writing on the Marbletown Disclosure Form, annually or as otherwise required, information on investments, and on potential conflicts of interest (as defined in Section § 24-5)

Immediate Relative: An immediate family member such as a spouse, partner, parent, stepparent, sibling, stepsibling, sibling's or stepsibling's spouse, child, step-child, parent-in-law, son or daughter-in-law.

Other Relative or Person: Other relatives such as uncle, aunt, nephew, niece, first cousin, household member or individual(s) who have a significant relationship and can influence the TO/TE.

Code: This Code of Ethics.

Interest: A direct or indirect pecuniary or material benefit accruing to a TO/TE in their individual capacity as a result of official action. Note: This does not include any interest or benefit arising from the provision or receipt of any services or official action that are generally available to the residents and/or

taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers

For the purposes of this Code, a TO/TE shall be deemed to have an Interest in the contract of:

- A. An Immediate Relative, except a contract of employment with the Town of Marbletown which such officer or employee serves.
- B. A firm, partnership or association of which such TO/TE is a member or employee.
- C. A corporation of which such TO/TE is an officer, director, trustee or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such Officer or Employee.

Official of a Political Organization: The office of chairman, secretary, treasurer and such other officer titles as the bylaws or other rules of the particular body may provide in a political party, political club or association, political society, or political committee.

§ 24-3 Standards of Professional and Personal Conduct.

In accordance with the Ulster County Code of Conduct for Elected and Appointed Officials government, every TO/TE of the Town of Marbletown shall be subject to and abide by the following standards of conduct to assure that all elected and appointed officials and employees, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Marbletown's government:

- A. No TO/TE shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, an Immediate Relative, or any private organization in which he or she is has an Interest as specified in § 24-4.
- B. While executing the duties of their office, the professional and personal conduct of TO/TEs must strive to be above reproach and make every effort to avoid even the appearance of impropriety. TO/TEs shall refrain from abusive conduct, personal charges, or verbal or written attacks upon the character or motives of other TO/TEs or the public. In addition, TO/TEs shall not directly or indirectly induce, encourage or aid anyone in violating this Code. Every TO/TE shall make a good faith effort to report and address apparent violations of this Code of Ethics in writing to the Town Clerk.
- C. Petty slights, annoyances, and isolated incidents (unless extremely serious or frequently repeated) will not rise to the level of a violation of this Code. To violate this code, the conduct must create a work environment that would be intimidating, hostile, or offensive to a reasonable person.
- D. Confidential information. A TO/TE shall not disclose confidential information acquired by virtue of their status as a TO/TE; TO/TEs must maintain the confidentiality of all written materials and verbal information provided which is confidential or privileged. TO/TEs shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

- E. TO/TEs shall support the maintenance of a positive and constructive environment for citizens and businesses dealing with the town and for all serving on its committees and commissions.

§ 24-4. Conflict of interest

No TO/TE 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 organization in which he or she is has an interest or even an appearance of an interest, as defined below. There shall thus be no conflicts of interest, or even appearances of conflicts of interest, in the conducting of Town matters.

- A. Gifts.** An officer or employee shall not solicit any gift or accept or receive any gift having a current fair market value of \$25 or more for any individual gift, and a total of \$75 per year, whether in the sum of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that such gift was intended to influence the officer or employee or could reasonably be expected to influence the officer or employee in the performance of official duties, or was intended as a reward for any official action on the officer's or employee's part.¹
- B. Representation Before One's Own Board with or without Compensation.** A TO/TE shall not represent any matter, unless on behalf of the Town of Marbletown, before any Town agency of which the individual is an officer, member or employee, or of any Town agency over which the individual has jurisdiction or to which the individual has the power to appoint member, officer or employee. In the case a TO/TE is a member of the Board to which he or she is presenting, the TO/TE should recuse him or herself from all presentations and discussions and deliberations.
- C. Prohibited Compensation or Contingency Fee.** A TO/TE shall not receive compensation, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town, whereby the officer's or employee's compensation is to be dependent or contingent (in whole or in part) upon any action by such agency with respect to such matter. This provision shall not prohibit the earning or fixing at any time, fees based upon the reasonable value of the services rendered, where services rendered were not anticipated at the time of review, or contingent, and where if aware of potential involvement, the TO/TE recused themselves from all matters related to the approval(s).
- D. Personal or Material Interest in Legislation or Action.** Each TO/TE, whether paid or unpaid, who participates in the discussion of, or gives an official opinion to, the Town Board on any legislation or other official action before the Town Board, shall publicly Disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she

¹ This does not prohibit any other gift, including (1) Gifts made to the municipality; (2) Gifts from a person with a familiar or personal relationship with the TO/TE when the circumstances make it clear that the personal relationship, rather than the recipient's status as a TO/TE Is the primary motivating factor for the gift; (3) Awards or plaques having a value of \$75 or less which are publicly presented in recognition of service or as owner of a town landmark; (4) Meals and refreshments provided when the TO/TE is a speaker or participates at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

has in such legislation or action and shall recuse themselves from any official action related to the approval(s).²

E. Investments or Business Ownership Which Conflict with Official Duties. A TO/TE or Immediate Relative may not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private entity which creates a conflict with the TO/TE's official duties. The following are illustrative, but not all encompassing, of investments or business ownership which may create conflicts of interest:

1. No TO/TE may acquire the following investments: **a.** Investments or business interests that can be reasonably expected to require more than sporadic recusal and abstention under § 24.3 of this code; or **b.** Investments or business or professional interests that would otherwise impair the TO/TE 's independence of judgment in the exercise or performance of his or her official powers and duties.
2. This section does not prohibit a TO/TE from acquiring any other investments or the following assets: **a.** Real property located within the municipality and used as his or her personal residence; or office or business; **b.** Less than 5% of the stock of a publicly traded corporation; or **c.** 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.

F. Private Employment in Conflict with Official Duties. No TO/TE, during his or her tenure as a TO/TE, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

1. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 24-6 of this Code;
2. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a TO/TE;
3. Violates Article 18 of the General Municipal Law (certain action prohibited); or

G. Future Testimony and Employment. A TO/TE shall not, for personal gain, for a period of two years after the termination of service or employment with the Town or any Board, appear before any board or agency of the Town of Marbletown in relation to any case, proceeding or application in which the TO/TE personally participated during their period of service or employment, or which was under the officer's or employee's active consideration.³

² This clause is not intended to prohibit a TO/TE from participation in discussions regarding actions that benefit the entire community.

³ This code shall not be construed as prohibiting a TO/TE 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.
- c. No TO/TE, at any time after serving as a TO/TE, 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 TO/TE.

H. Employment of Relatives. An Immediate Relative of a TO/TE may be considered for employment by the Town if the applicant possesses all of the qualifications for employment. However, an immediate family member may not be hired if the employment would create either a direct or indirect supervisory/subordinate relationship with the family member; or create either an actual conflict of interest or the appearance of a conflict of interest. These criteria will also be considered when assigning, transferring or promoting an employee. Other Relatives may be hired into direct or indirect supervisory/subordinate positions.

1. No TO/TE, 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.
2. Disclosure of relationships, as defined in § 24.2, must be made by the person seeking employment and/or appointment with the Town of Marbletown or their employed Relative.
3. TO/TEs who marry or become Immediate Relatives may continue employment as long as there is not a direct or indirect supervisor/subordinate relationship between the employees, or an actual conflict of interest or the appearance of a conflict of interest. Should one of the above situations occur, the Town will attempt to find a suitable position with the Town to which one of the affected employees may be appointed. Such appointment must be in accordance with applicable state and local statutes, including Civil Service Law and related rules and regulations. If accommodations of this nature are not feasible, the employees will be permitted to determine which one of them will resign

I. Discrimination. No TO/TE, or any service or other organization chartered by or directly or indirectly sponsored or supported by the Town shall discriminate against any federal or state legally protected class.

J. Political Solicitations.

1. No TO/TE shall directly or indirectly compel or induce, or attempt to compel or induce, a TO/TE to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
2. No TO/TE 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 TO/TE, or an applicant for a position as a TO/TE, 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.
3. No TO/TE shall use his or her official position to obtain, provide, furnish or supply any municipal resource, including but not limited to personnel, services, equipment, supplies or facilities on behalf of any political party or candidate, political club or association or any political society or committee. In addition, no elected official or any chairperson of any Town committee, commission or board shall hold office in any political party, political club or association, society or committee. This provision shall not be interpreted or construed as precluding any TO/TE from being involved in the political affairs of the Town as a private

citizen, nor shall it preclude any TO/TE from soliciting and/or receiving campaign contributions in the course of a political campaign for public office conducted pursuant to the laws of the State of New York, nor shall it exempt any TO/TE from any federal, state or local rules, regulations, codes of conduct or other restrictions imposed by law.

§ 24-5. Disclosure of Conflicts of Interest

- A. The following individuals are required to complete, and submit to the Town Clerk, a Disclosure form: Town Board members, members of commissions and boards and committees, nonunion department heads, any TO/TEs responsible for purchasing, the town engineer, and the town attorney. The initial disclosure form provided by the Town of Marbletown shall be submitted within 30 days of appointment or employment, or within 30 days of the effective date of this chapter, whichever comes earlier. Disclosure forms are to be updated annually. Failure to file the required disclosure statement or any amendment thereto in a timely fashion shall be deemed a violation of this chapter.

The form shall document all material or financial Interests that 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 that could create a conflict of Interest as defined in §24-4, or the appearance of a conflict of interest. The individual shall disclose, in writing, the nature of the Interest on the Disclosure form provided and retained by the Town Clerk.

- B. Disclosure forms shall be reviewed by a member of the Board of Ethics but shall remain confidential.
- C. In the event that a change in circumstances occurs with respect to any information required on the aforesaid disclosure statement, the party required to file such a statement shall within 15 days file an amended statement reflecting any such change.
- D. In the case of a person serving in an elective or appointed office, the Disclosures shall be filed with the Town Clerk. 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 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.
- E. Disclosure forms shall be maintained in the TO/TE's confidential personnel file.

§ 24-6 Recusal and Abstention

In the event that Section §24-5 prohibits a TO/TE from exercising or performing a power or duty:

- A. If the power or duty is vested in a Town 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
- B. If the power or duty is vested in a Town 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; or

- C. If the power or duty is vested in a Town 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.

§ 24-7 Establishment, Composition, Removal, and Operation of Board of Ethics

- A. Such board of ethics shall consist of five full members, a majority of whom shall not be officers or employees of Marbletown and at least one of whom shall be an elected or appointed officer or employee of the Town. The members of such board shall reside in the Town and shall not hold an office in any political organization. They shall receive no salary or compensation for their services as members of such board and shall be approved by the Town Board. No more than a majority minus one shall be registered in the same political party.
- B. Terms of Members. Terms Shall Be Fixed. Five Year Terms.** In the creation of a new Board of Ethics, or the reestablishment of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such member was initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of the calendar year next following the calendar year in which such member was appointed; one member's term shall expire at the end of the second calendar year next following the calendar year in which such member was appointed; one member's term shall expire at the end of the third calendar year next following the calendar year in which such member was appointed; and one member's term shall expire at the end of the fourth calendar year next following the calendar year in which such member was appointed. At the expiration of each original member's appointment, each replacement member shall be appointed for a term of five years. Consecutive service shall not exceed two full terms. When a vacancy occurs, it shall be filled within 30 days for the unexpired portion of the term. However, a member shall serve until his or her successor has been appointed.
- C. Board of Ethics Officers.** The Board of Ethics shall designate the Chairperson thereof and, in the absence of a Chairperson, the Board of Ethics may designate a member to serve as Acting Chairperson. A member shall not be removed without good cause, and without a written complaint of specific charges, and an opportunity to contest them with an attorney and a hearing. Good cause shall include, but not be limited to, a failure of a member to recuse himself/herself on any issue before the Board where there is a conflict of interest, an appearance of a conflict of interest, or a personal or official connection to the member. The Board of Ethics shall designate a member to serve as Secretary who shall be in charge of recording its minutes and maintaining its books and records. In the absence of a Secretary, the Board of Ethics may designate a member to serve as Acting Secretary.
- D. Quorum and Voting.** Four members of the Board of Ethics shall constitute a quorum and are required for a vote. Virtual participation is permissible.

§ 24-8 Powers and Duties of the Board of Ethics

On written request, the Board of Ethics established hereunder shall render advisory opinions to TO/TEs. In addition, upon written request of the Town Board, the Board of Ethics shall make recommendations to the Town Board as to any amendments to the Code of Ethics. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the TO/TE be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Attorney to the Town Board.

- A. Procedures** The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall promptly render advisory opinions: **1.** to the officers and employees of the Town regarding their own conduct with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter, and **2.** to officers of the Town regarding the conduct of any officer, employee or consultant with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter.
- 1.** The Ethics Board is authorized pursuant to this chapter to employ the services of an attorney to provide legal assistance and advice at any stage of the Ethics Board's inquiry into any matter.
 - 2.** The Ethics Board shall promptly deliver its advisory opinion to the Town Clerk together with a confidential copy thereof to each member of the Town Board and to the attorney for the Town. The Town Board shall convene a meeting, **in executive session, if necessary**, to review such opinion and thereafter shall take such action as is appropriate under the circumstances.
 - 3.** Within two business days following a final determination by the Town Board with respect to the matters contained in the advisory opinion of the Ethics Board, the Town Clerk, unless expressly prohibited by law, shall furnish to the subject of the ethics inquiry a copy of such Town Board determination together with a copy of the advisory opinion of the Ethics Board.
 - 4.** It shall be a violation of this chapter for any municipal officer, employee or consultant to influence or attempt to influence the independent exercise or performance of the official duties or responsibilities of the Ethics Board with respect to any inquiry. For purposes of this subsection, the presence of and participation by a member of the Town Board as liaison to the Ethics Board at its meetings and in its deliberations shall not constitute a violation of this chapter.
 - 5.** Advisory opinions of the Ethics Board shall be subject to Article 6, § 87 of the Public Officers Law of the State of New York (Freedom of Information Law ((FOIL)) and, if required subject to such law, shall be reported to and made available by the Town Clerk, as the Town records access officer, to the subject of the inquiry and to the public in accordance with Article 6, § 87 of the Public Officers Law of the State of New York (FOIL). The accuser or person filing the request for review should receive a copy of the final decision.

B. Requests for Investigations

The Board of Ethics shall convene at least twice per year and at such times as may otherwise be necessary. The Board of Ethics may recommend rules and regulations relative to the conduct of its business and these shall be reviewed by the Town Board and approved by the Town Board prior to adoption by the Board of Ethics. The Board of Ethics may only render advisory opinions, to the Town Board, subject to these limitations:

1. Requests for advisory opinions shall be in writing and shall have attached any originating request or inquiry.
2. Requests for advisory opinions must originate with a TO/TE who, upon receipt, shall promptly forward such request to the Board of Ethics.
3. Requests for advisory opinions must relate to the Town's Code of Ethics.
4. The opinion must be approved as to legal sufficiency by the Attorney for the Town.

C. Other Responsibilities

1. Make recommendations with respect to the drafting and adoption of the Code of Ethics, or amendments thereto, upon request of the Town Board.
2. Have the responsibility to review disclosure statements filed pursuant to §24-5.

D. Meetings and Documentation. Meetings of the Ethics Board shall be limited to members of the Ethics Board, except when the Ethics Board requests testimony or information. The Board Secretary will **file advisory opinions with the Town Clerk and the Town Board.** The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York (FOIL) or by some other state or federal law or regulation. All paper records must be kept in a locked file cabinet; stored digital records must be password-protected.

§ 24-9 Administration of the Code of Ethics.

All TO/TEs must acknowledge receipt and review of this Code of Ethics at the commencement of their employment or service. The Town Clerk shall retain signed forms acknowledging such receipt and review.

- A. The Supervisor must cause the following notice to be posted publicly and conspicuously in each building under the municipality's control: "Town of Marbletown officers, employees and consultants must abide by the requirements of Local Law Chapter 15, Ethics. Copies of the local law may be obtained from the Town Clerk."
- B. The Supervisor must promptly cause a copy of the Code, including any amendments thereto, to be distributed to every person who is or becomes a TO/TE of the Town of Marbletown within 30 days after its enactment.
- C. Each TO/TE elected or appointed thereafter shall be furnished a copy when commencing the duties of their office or employment. Each TO/TE elected or appointed thereafter shall be furnished a copy of the Code before beginning their duties.
- D. Every TO/TE must acknowledge, in writing, receipt and review of a copy of this Code.
- E. 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 TO/TE 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.

- F. The Town of Marbletown, upon issuance of this Code and at least annually thereafter, shall conduct mandatory training sessions with respect to this Code.

§ 24-10 Appropriation of Funds.

The Town Board may appropriate moneys from the general Town funds for the maintenance of, and for personnel services including legal counsel to, the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of Town moneys except with the appropriations provided herein.

§ 24-11 Filing of Claims Against Town.

Nothing herein shall be deemed to bar or prevent the timely filing, by a present or former TO/TE, of any claim, account, demand or suit against the Town of Marbletown or any agency thereof on behalf of themselves or any member of their family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 24-12 Penalties for Offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be censured, fined, suspended or removed from office or employment, as the case may be, in the manner provided by law. Civil penalties: Any TO/TE who violates any provision of this law, including any reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this chapter, shall be assessed a civil penalty in an amount not to exceed \$10,000. Assessment of a civil penalty hereunder shall be recommended by the Board of Ethics. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

§ 24-13 Effective Date.

This Local Law shall become effective upon filing with the New York Secretary of State.