

MARLBORO TOWNSHIP ETHICS BOARD

CODE OF ETHICS

I. Title.

This code shall be known and may be cited as the “Marlboro Township Code of Ethics.”

II. Findings.

The Marlboro Township Ethics Board finds and declares that:

- A. Public office and employment are a public trust.
- B. The vitality and stability of representative democracy depend upon the public’s confidence in the integrity of its elected and appointed representatives.
- C. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled.
- D. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties.

III. Purpose and authority.

- A. It is the purpose of this code to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the Township of Marlboro shall be clear, consistent, uniform in their application and enforceable and provide those officers and employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.
- B. It is the further purpose of this code to implement the provisions of the Local Government Ethics Law, P.L. 1991, c. 29, N.J.S.A. 40A:9-22.1, *et seq.*
- C. This code is enacted under the authority of the Local Government Ethics Law, P.L. 1991, c. 29, N.J.S.A. 40A:9-22.1, *et seq.* and under the further authority granted to the Township of Marlboro under the provisions of Titles 40 and 40A of the New Jersey Statutes.

IV. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGENCY – Any governmental agency, board, governing body, including the chief executive officer, office, commission or other instrumentality within the Township of Marlboro, and any

independent local authority created by or appointed under the authority of the Township of Marlboro, which performs functions other than that of a purely advisory nature.

BUSINESS ORGANIZATION – Any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

EMPLOYEE – Any person who is not a local government officer, whether compensated or not, whether part-time or full-time, whether employed by or serving on an agency.

INTEREST – The ownership or control of more than ten percent (10%) of the profits, assets or stock of a business organization, but shall not include the control of assets in a nonunion profit entity or labor union.

OFFICER:

A. Any person, whether compensated or not, whether part-time or full-time, who is one (1) of the following:

- (1) Mayor.
- (2) Township Council.
- (3) Municipal Clerk.
- (4) Deputy Municipal Clerk.
- (5) Business Administrator.
- (6) Confidential Aide to Mayor.
- (7) All department heads.
- (8) All salaried division heads.
- (9) Fire Commissioners.
- (10) Recreation Commissioners.
- (11) Township Engineer.
- (12) Municipal Prosecutor.
- (13) Public Defender.
- (14) Members, Zoning Board of Adjustment.

- (15) Clerk, Zoning Board of Adjustment.
- (16) Attorney, Zoning Board of Adjustment.
- (17) Engineer, Zoning Board of Adjustment.
- (18) Planner, Zoning Board of Adjustment.
- (19) Members, Planning Board.
- (20) Clerk, Planning Board.
- (21) Attorney, Planning Board.
- (22) Engineer, Planning Board.
- (23) Planner, Planning Board.
- (24) Township Planning Consultant.
- (25) Members, Board of Ethics.
- (26) Attorney, Board of Ethics.
- (27) Code Enforcement Officer.
- (28) All police officers above the title of patrolman.
- (29) Marlboro Commissioners, Western Monmouth Utilities Authority.
- (30) Commissioners, Marlboro Township Municipal Utilities Authority.
- (31) Members, Affordable Housing Council and Rent Control Board.
- (32) Swim Club, Executive Director
- (33) Any other person who is a managerial executive or confidential employee, as defined by Section 3 of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-3, of the Township of Marlboro or of an agency created under the authority of or appointed by the Township of Marlboro.

OFFICER OR EMPLOYEE – An officer or employee of the Township of Marlboro or of an agency under the authority of or appointed by the Township of Marlboro.

V. Ethical standards.

A. For purposes of this Section, “member of his or her family” shall mean the parent(s), siblings, spouse, partner, children or in-laws of an officer or employee.

B. Officers and employees of the Township of Marlboro shall comply with the following ethical standards:

(1) No officer or employee of the Township of Marlboro or member of his or her family shall have an interest in a business organization or engage in any business, transaction or professional activity which is in conflict with the proper discharge of the officer’s or employee’s duties in the public interest.

(2) No officer or employee shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself or others.

(3) No officer or employee shall act in his or her official capacity in any matter where he or she, a member of his or her family or any business organization in which he or she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity, independence or judgment.

(4) No officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.

(5) No officer or employee, member of his or her family or any business organization in which he or she has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing the officer or employee, directly or indirectly, in the discharge of his or her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the officer in the discharge of his or her official duties.

(6) No officer or employee shall use or allow to be used his or her public office or employment or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her office or employment for the purpose of securing financial gain for himself or herself, any member of his or her family or any business organization with which he or she is associated.

(7) No officer or employee or any business organization in which he or she has an interest shall represent any person or party other than the Township in connection with any cause, proceeding, application or other matter pending before any agency of the Township of Marlboro. This provision shall not be deemed to prohibit an employee from

representing another employee where the representation is within the context of an official labor union or similar representational responsibilities; nor shall this provision be applicable to the Township Public Defender with respect to representation of defendants in the Municipal Court.

(8) No independent authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:

- a. award any contract which is not publicly bid to a former member of that authority;
- b. allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or
- c. employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

(9) No officer or employee elected or appointed in the Township shall approve or disapprove or in any way recommend the payment of any bill, voucher or indebtedness owed or allegedly owed by the Township in which he or she has a direct or indirect personal, pecuniary or private interest.

(10) No officer or employee elected or appointed in the Township shall request, use or permit the use of any public property, vehicle, equipment, labor or service for personal convenience or for the private advantage of himself or herself or any other person. This prohibition shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such public property, vehicle, equipment, material, labor or service when it is the general practice to make them available to the public at large or which are provided as a matter of stated public policy for the use of officials and employees in the conduct of official business.

C. No officer shall be deemed in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him or her as a member of any business, profession, occupation or group to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

D. No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his or her family, whether directly or indirectly, in return therefore.

E. Nothing shall prohibit any officer or employee of the Township of Marlboro or members of his or her family from representing himself, herself or themselves in negotiations or proceedings concerning his, her or their own interests.

VI. Financial disclosure statements.

A. Officers of the Township shall annually file a financial disclosure statement. All financial disclosure statements shall include the following information, which shall specify, where applicable, the name and address of each source and the officer's job title:

(1) Each source of income, earned or unearned, exceeding two thousand dollars (\$2,000) received by the officer, his or her spouse or a dependent child of the officer residing in the same household, during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer, his or her spouse or a dependent child of the officer residing in the same household has an interest in the business organization.

(2) Each source of fees and honorariums having an aggregate amount exceeding two hundred fifty dollars (\$250) from any individual, business organization or, collectively, from owners or employees of the same business organization for personal appearances, speeches or writing received by the local government officer, his or her spouse or a dependent child of the officer residing in the same household, during the preceding calendar year.

(3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding four hundred dollars (\$400) from any individual, business organization or, collectively from owners or employees of the same business organization, excluding relatives, received by the local government officer, his or her spouse or a dependent child of the officer residing in the same household, during the preceding calendar year.

(4) The name and address of all business organizations in which the local government officer, his or her spouse or a dependent child of the officer residing in the same household had an interest during the preceding calendar year.

(5) The address and brief description of all real property in the state in which the local government officer, his or her spouse or a dependent child of the officer residing in the same household held an interest during the preceding calendar year.

B. The New Jersey Local Finance Board's Financial Disclosure Statement, adopted in accordance with the New Jersey Local Government Ethics Law, shall be used for purposes of disclosing the information set forth in subsection A of this Section. The Financial Disclosure Statement shall be provided to those officers required to file a Financial Disclosure Statement.

C. The original Financial Disclosure Statement shall be filed on or before April 30 of each year. Persons who become officers following April 30 of any year shall file a Financial Disclosure Statement within thirty (30) days of accepting or being appointed to his or her position.

D. All Financial Disclosure Statements shall be public records.

VII. Marlboro Township Ethics Board.

A. There is hereby established the Marlboro Township Ethics Board, consisting of six (6) members who are residents of the Township, at least two (2) of whom shall be public members. The members of the Board shall be appointed by the Mayor with the advice and consent of the Township Council. The member shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three (3) members of the Board shall be of the same political party.

B. The Board shall annually elect a Chairperson from among its membership.

C. The members shall serve for terms of five (5) years, except that, of the members initially appointed, two (2) of the public members shall be appointed to serve for terms of five (5) years, one (1) member shall be appointed to service for a term of four (4) years, and the remaining members shall be appointed to serve a term of three (3) years. Each member shall serve until his or her successor has been appointed and qualified. Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the unexpired term.

D. Members of the Board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties under this code.

E. All hearings required pursuant to this code shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the Administrative Procedure Act, N.J.S.A. 52:14B-1, *et seq.*

F. In the event that a hearing is to be held, the officer or employee charged with violation of this section shall be accorded due process of law, including but not limited to the following:

- (1) Right to counsel.
- (2) Right to prehearing discovery.
- (3) Right to take sworn oral and written testimony from any person.
- (4) Reasonable notice of hearing.
- (5) Right to subpoena persons and documents.

- (6) Right to make a stenographic record of the hearing.
- (7) Right of examination and cross-examination.

VIII. Facilities and staff.

A. The Business Administrator shall provide the Marlboro Township Ethics Board with the facilities needed for the conduct of its business and the preservation of its records and shall provide equipment and supplies as may be necessary and as may be provided for in the annual municipal budget.

B. All necessary expenses incurred by the Marlboro Township Ethics Board and its members shall be paid, upon certification of the chairperson of the Board, by the Township Treasurer within the limits of funds appropriated in the annual budget or by emergency appropriations for those purposes.

C. The Marlboro Township Ethics Board may request and receive assistance from the Township officers and employees, including the Municipal Clerk and the Municipal Attorney, and may appoint employees, including clerical staff, as are necessary to carry out the provisions of this code, within the limits of funds appropriated by the Township Council for those purposes in the annual budget.

IX. Powers and duties of Ethics Board.

The Marlboro Township Ethics Board shall have the following powers:

A. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the Code of Ethics or financial disclosure requirements by local government officers or employees serving the Township.

B. To issue subpoenas for the production of documents and attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing.

C. To forward to the County Prosecutor or the Attorney General or other governmental body any information concerning violations of the Code of Ethics or financial disclosure requirements by officers or employees serving the Township which may warrant the institution of other legal proceedings by the Attorney General.

D. To render advisory opinions to local officers or employees serving the Township as to whether a given set of facts and circumstances would constitute a violation of any provision of the Code of Ethics or financial disclosure requirements.

E. To enforce the provisions of the Code of Ethics and financial disclosure requirements with regard to officers or employees serving the Township and to impose penalties for the violation thereof as are authorized by this code.

F. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this code.

X. Advisory opinions.

A. An officer or employee of the Township of Marlboro may request and obtain from the Marlboro Township Ethics Board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the Code of Ethics.

B. Advisory opinions shall not be made public except when the Board, by the unanimous vote of all of its members present, directs that the opinion be made public or when the Board by a two-thirds (2/3) vote of all of its members present, determines that disclosure is required in connection with a related or independent investigation.

C. Public advisory opinions shall not disclose the name of the officer or employee unless the Board, in directing that the opinion be made public, so determines.

XI. Complaints.

A. The Marlboro Township Ethics Board, upon receipt of a signed written complaint by any person alleging that the conduct of any officer or employee of the Township of Marlboro serving the Township is in conflict with the Code of Ethics, shall acknowledge receipt of the complaint within thirty (30) days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint.

B. The Board shall make a determination as to whether the complaint is within its jurisdiction, frivolous or without any reasonable factual basis.

C. If the Board shall conclude that the complaint is outside its jurisdiction, frivolous or without any reasonable factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the officer or employee of the Township of Marlboro against whom the complaint was filed.

D. If the Board shall conclude that the complaint is within its jurisdiction and has at least a minimal factual basis, the Board shall provide written notification to the officer or employee of the Township of Marlboro against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.

E. The officer or employee against whom the complaint was filed shall have the opportunity to present the Board with any statement or information concerning the complaint which he or she wishes.

F. If the Board determines that a reasonable doubt exists as to whether the officer or employee of the Township of Marlboro is in conflict with the Code of Ethics, the Board shall conduct a hearing concerning the possible violation and any other facts and circumstances which

may have come to the attention of the Board with respect to the conduct of the officer or employee.

G. The Board shall render a decision as to whether the conduct of the officer or employee is in conflict with the Code of Ethics. This decision shall be made by no less than two-thirds (2/3) of all members of the Board. The officer employee or complaintant shall have the right to appeal the decision of the Board to the Local Finance Board within the New Jersey Department of Community Affairs. Said appeal shall be filed within thirty (30) days of the date on which the written decision was received by the officer or employee and shall be decided in accordance with the rules and requirements of the Local Finance Board.

H. If the Board determines that the officer or employee is in conflict with the Code of Ethics, it may impose any penalties which it believes appropriate within the limits of this code.

I. The officer or employee shall be responsible for the expense of his or her own defense, including legal costs. If the accused officer or employee is ultimately found not to have violated the Code of Ethics, the Township shall reimburse him or her for the reasonable costs of his or her defense.

XII. Enforcement; violations and penalties.

A. An appointed officer or employee of the Township of Marlboro found guilty by the Marlboro Township Ethics Board of violating any provision of the Code of Ethics shall be fined a penalty in accordance with the Local Government Ethics Law, P.L. 1991, c. 29, N.J.S.A. 40A:9-22.1, *et seq.*, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1. The Marlboro Township Ethics Board shall report its findings to the office or agency having the power of removal or discipline of the appointed officer or employee and may recommend that further disciplinary action be taken.

B. An elected officer or employee of the Township of Marlboro found guilty by the Marlboro Township Ethics Board of violating any provision of the Code of Ethics shall be fined a penalty in accordance with the Local Government Ethics Law, P.L. 1991, c. 29, N.J.S.A. 40A:9-22.1, *et seq.*, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1.

C. The finding by the Marlboro Township Ethics Board that an appointed officer or employee of the Township of Marlboro is guilty of violating any provision of the Code of Ethics shall be sufficient cause for his or her removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is found to have violated any provision of the Code of Ethics, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any application procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

XIII. Records of Ethics Board.

All statements, complaints, requests or other written materials filed pursuant to this code and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this code shall be preserved for a period of five (5) years from the date of filing or preparation, as the case may be.