

## CHAPTER X CODE OF ETHICS

### **SECTION 10.1 Legislative Intent**

The proper operation of government requires that public officials and public employees be independent, impartial and responsible to the people; that governmental decisions and policies be made free from undue influence and in the proper channels of governmental structure; that governmental office and employment not be used for unauthorized personal gain; that governmental officials and employees strive to avoid the appearance of impropriety; and that the public have confidence in the integrity of its government. The purpose of this Code of Ethics is to set forth standards of ethical conduct to guide elected officials, employees, board and commission members of the Town of Marlborough in the conduct of their public responsibilities and to develop and maintain a tradition of responsible and effective public service. In recognition of these goals, this Code of Ethics is established pursuant to authority granted to the Town by Connecticut General Statutes SECTION 7-148h, as amended.

### **SECTION 10.2 Office of Ethics (OE)**

- A. Establishment.** As authorized by Chapter X of the Charter of the Town of Marlborough and Section 7-148h, as amended, of the Connecticut General Statutes, the Board of Selectmen (BOS) shall establish a voluntary Office of Ethics (OE) consisting of two members, regardless of party affiliation, and a clerical position. Selection of the members will be based on “best qualified” and shall serve at the pleasure of the Board of Selectmen, with no designated term limit. Members must be residents of the Town of Marlborough. Except for the clerical position, no member of the OE shall be employed by the Town; have been employed by the Town for a period of two years prior to being appointed to the OE; hold or seek any Town office; have campaigned for any other person seeking a Town office within the past two years; have held any State or Town office for a period of two years prior to being appointed to the OE; serve as a member of another board or commission; hold office in a political party or political committee; or have been found in violation of any State, local or professional code of ethics.
- B. Organization and Procedure.** The OE shall designate a Chairman and Vice Chairman and shall establish its own rules and procedures, which shall be available to any elector of the Town upon request to the OE. The first rules and procedures shall be established within three months of the date this chapter becomes effective. The need to maintain confidentiality to protect the privacy

of public officials, employees and consultants shall be considered when establishing the rules and procedures. It shall keep records of its meetings and shall hold meetings at the call of the Chairman and at such other times as it may determine.

**C. Powers and Duties.**

**(1)** The OE shall render advisory opinions with respect to the applicability of the Code of Ethics to specific situations to any agency or any official, employee or consultant/contractor pursuant to a written request or upon its own initiative. The OE may also issue guidelines. Such opinions and guidelines, until amended or revoked, shall be binding on the OE, and reliance upon them in good faith is an absolute defense in any action brought under the provisions of this chapter. Any request or opinion, the disclosure of which invades the personal privacy of any individual [as that term is used in Connecticut General Statutes Section 1-19(b)(2), as amended, by the Connecticut Freedom of Information Commission and the courts], shall be kept confidential in a personnel or similar file and shall not be subject to public inspection or disclosure. The OE may make available to the public any advisory opinions that do not invade an individual's privacy and may take other appropriate steps to increase public awareness of this Code of Ethics.

**(2)** The public may initiate complaints alleging a violation of this Code of Ethics using the Town of Marlborough Ethics Complaint Form (Attachment 1). The OE itself may also initiate such a complaint. The OE shall have the power to investigate alleged violations concerning the application of this Code. As required by Section 7-148h(a) of the Connecticut General Statutes, as amended, the provisions of Section 1-82(a) through (c) of the Connecticut General Statutes, as amended, shall apply to all investigations held under this chapter (see Attachment 2). If the OE determines that there is probable cause, it shall inform the respondent by certified mail of a pending investigation and continue the investigation and hold such further interviews as may be necessary. If the OE determines that the respondent has, in fact, violated the provisions of this Code based on a preponderance of evidence (rather than beyond a reasonable doubt), it shall file a Memorandum of Findings with the Board of Selectmen, except with respect to individuals under the jurisdiction of the appropriate Board of Education\*, in which case, the Memorandum of Findings shall be filed with that Board of Education. In the case of a consultant, it shall also be filed with the contracting agency.

**(3)** If an official, employee or consultant who is the subject of a complaint under investigation leaves office or employment after filing of the complaint against them, but before resolution of the complaint, the OE shall have the power to

continue investigation of the complaint. If an ethics complaint is filed against a former Town of Marlborough official, employee, board member, commission member or consultant within 90 days after he/she has left employment for the Town, the OE shall have the power to initiate an investigation.

(4) A substantiated violation of the Code shall be presented in a Memorandum of Findings to the respondent and the Board of Selectmen or Board of Education for action they may deem appropriate in accordance with their respective responsibilities under the law. Such actions may include, but are not limited to, public censure, reprimand, suspension, demotion, removal, or dismissal of officials, employees and consultants as applicable. No such recommendation shall limit the authority of the Board of Selectmen or the Board of Education under the Charter of the Town of Marlborough or under any ordinance, statute or any other law, and the actions hereunder shall be supplemental to any authority the Board of Selectmen or Board of Education has under any ordinance, statute or any other law. Any discussion by the Board of Selectmen, Board of Education or contracting agency of an individual affected by said Memorandum of Findings shall be in executive session, unless the individual affected requests that such discussion be held in open session.

### **SECTION 10.3 Definitions**

For the purpose of this chapter, the following terms shall have the indicated meanings:

#### **AGENCY**

All boards, commissions, authorities and committees of the Town of Marlborough, including the Board of Education, but not including a Town Meeting.

#### **BENEFICIAL INTEREST**

Any nonfinancial interest or special treatment that is not common to other citizens of the Town. An individual's beneficial interests shall include the beneficial interests of all members of his/her family.

#### **\*BOARD of EDUCATION**

The Town of Marlborough has a local Board of Education and four participant members on the Regional Board of Education.

#### **CONFIDENTIAL INFORMATION**

Information, whether transmitted orally or in writing, that is obtained by an official or employee by reason of his/her public position and is of such nature that, at the time of transmission, it is not a matter of public record.

**CONSULTANT**

Any independent contractor or professional person or firm that is engaged by and receives compensation from any agency for the purpose of providing scientific, technical or other specialized opinion to such agency and is in a position to influence any decision of an agency, official or employee.

**EMPLOYEE**

Includes all persons, including but not limited to officers and supervisors, employed by the Town and encompasses all persons, including but not limited to officers and supervisors, employed by the Board of Education.

**FINANCIAL INTEREST**

Any interest that has a monetary value of \$100 or more or generates a financial gain or loss of \$100 or more in a calendar year; and is not common to the other citizens of the Town. An individual's financial interests shall include the financial interests of all members of his/her family but shall not include any duly authorized compensation from the Town.

**OFFICIAL**

Includes Town employees and all persons who are members of a board(s), commission(s) or any other agencies pertaining to or in collaboration with the Town of Marlborough.

**SECTION 10.4 Consultants**

**A.** This Code of Ethics shall be incorporated into all contracts entered into by an agency and/or a consultant.

**B.** Persons or firms who are engaged by and receive compensation from other entities, such as the state or federal government, and who are in a position to influence any decision of an agency, official or employee shall be guided by this Code of Ethics. The Office of Ethics, upon complaint or its own motion, may make recommendations to the entity employing such persons.

**SECTION 10.5 Confidential Information**

Except as otherwise required by law, no official, employee or consultant shall disclose, without proper authorization, confidential information, nor shall he/she use such information to advance his/her financial or beneficial interests or the financial or beneficial interests of others. This section shall not be used to restrict the release of information that is properly available to the public.

**Section 10.6 Use of Influence**

No official, employee or consultant may inappropriately use his/her position to influence a decision affecting a financial interest or a beneficial interest in

his/her favor or in favor of any other person, to include family members, or entity.

**SECTION 10.7 Gifts and Favors (see Attachment 3)**

**A.** No official, employee or consultant or any member of his/her immediate family nor any agency, employee organization or group of employees shall solicit or accept any valuable gift (reference 10.7B of this section), whether in the form of a service, a loan at a less than a commercially reasonable rate, a material thing or a promise, from any person or entity who or which is interested directly or indirectly in any business transactions or pending matters that are within the purview of such prospective recipient's official responsibilities. No official or employee shall accept any special favor, treatment, consideration or advantage beyond that which is generally available to citizens of the Town from any person who, to the official or employee's knowledge, is interested directly or indirectly in any business transactions or pending matters that are within his/her official responsibilities. For purposes of this section, pending matters include, but are not limited to, applications to agencies, bids for work to be performed, applications for employment and bids for the furnishing of supplies, equipment or other items.

**B.** The Office of Ethics shall formulate guidelines for delineating gifts and favors deemed not to be of value in order to avoid de minimis situations. Such guidelines shall become effective upon adoption by the Board of Selectmen.

**C.** This section shall not apply to a political contribution otherwise reported as required by law.

**SECTION 10.8 Equal Treatment**

Without proper authorization, no official, employee or consultant shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

**SECTION 10.9 Conflict of Interest**

**A.** An official or employee or consultant has a conflict of interest when he/she engages in or participates in any transaction, including private employment and the rendering of private services, that is incompatible with the proper discharge of his/her official responsibilities in the public interest or would tend to impair his/her independent judgment or action in the performance of his official responsibilities.

**B.** An official or employee or consultant has a financial interest or beneficial interest that is incompatible with the proper discharge of his/her official responsibilities in the public interest if he/she has reason to believe or expect that he/she will derive such interest by reason of his/her performance of his/her official responsibilities.

**C.** An official or employee or consultant does not have a financial or beneficial interest that is incompatible with the proper discharge of his/her official responsibilities in the public interest if any such interest accrues to him/her as a member of a business, profession, occupation or group to no greater extent than it accrues to any other member of the business, profession, occupation or group that he/she represents. This does not relieve an individual from his/her obligation to refrain from voting on any matter that would directly benefit his/her business, profession, occupation, group or family as required by this Code of Ethics of the Charter of the Town of Marlborough and General Statutes Section 7-148h(b), as amended.

#### **SECTION 10.10 Disclosure**

**A.** Any official, employee or consultant who has a financial or beneficial interest, direct or indirect, in any contract, transaction or decision within the purview of his/her official responsibilities shall disclose that interest in writing to the OE. Such disclosure also shall be provided, in the case of an official, to the agency of which the official is a member, and, in the case of an employee or consultant, to the agency by which he/she is employed or has been retained. Such disclosure may disqualify the official, employee or consultant from participation in the matter, and violation of this section may be grounds for removal by the appropriate agency in accordance with applicable law.

**B.** No official, employee or consultant shall appear on behalf of any private person or party before any agency in connection with any cause, proceeding, application or other matter in which he/she has a financial or beneficial interest without first disclosing such interest to the agency, which shall record such disclosure in the record of the agency's proceeding. The Secretary or Clerk of said agency shall notify the Selectmen-Chair and, in the case of an official or employee of the Board of Education, the Chairman of the Board of Education, and the Office of Ethics in writing of such disclosure within three business days.

#### **SECTION 10.11 Incompatible Employment and Activities**

**A.** No official or employee shall engage in self-employment or accept private employment or render services for private interest when the employment or

services; are incompatible with the proper discharge of his/her official duties; or would tend to impair his/her independence of judgment or action in the performance of his/her official duty. No consultant shall engage in employment or render services for interests other than the Town when such employment or services; are incompatible with the proper discharge of his/her consulting duties; or would tend to impair the independence of his/her judgment or action on the matter for which he/she has been engaged by the Town.

**B.** No former official, employee or consultant shall appear on behalf of any private person or other entity before any agency with which he/she previously was employed or affiliated for a period of one year after the termination of his/her public service or employment. Such an individual may be relieved of his/her duty to refrain from such appearance upon written application to the Office of Ethics, which Office shall review the written application and relevant facts.

**C.** Subsections **B, C and D** of this section shall not prohibit any current or former official, employee or consultant from appearing before any agency on his/her own behalf or on behalf of members of his/her family. To avoid the appearance of impropriety, officials are strongly discouraged from appearing before their own agency unless extenuating circumstances exist. When in doubt, an official should seek an opinion from the Office of Ethics prior to appearing before his/her own agency.

**D.** An official should not appear before, or participate in the proceeding of, another agency in violation of Connecticut General Statutes Section 8-11 or 8-21, as amended, or any other provision of the General Statutes.

**E.** To avoid the appearance of impropriety, an official, not otherwise prohibited, shall exercise care when appearing before other agencies and shall disclose whether he/she is appearing in his/her official capacity or as a private citizen.

#### **SECTION 10.12 Acknowledgment Form (Attachment 4)**

**A.** Every official shall sign by the authority of the Board of Selectmen and file with the Town Clerk an acknowledgement form, supplied by the Town Clerk, indicating his/her awareness of the provisions of this Code of Ethics and the guidelines issued thereunder of the Charter of the Town of Marlborough before being sworn into office and again thereafter every two years as per Section 10.12C below. The OE shall adopt and implement a procedure for monitoring compliance with the aforesaid filing requirement.

**B.** On or before being retained by an agency, every consultant shall sign and file with the agency by which he/she is retained an acknowledgment form,

supplied by the Town Clerk, indicating his/her awareness of the provisions of this Code of Ethics, the guidelines thereunder and Section 10.9 of this Code of Ethics of the Charter of the Town of Marlborough and General Statutes Section 7-148h(b), as amended. The OE shall adopt and implement a procedure for monitoring compliance with the aforesaid filing requirement.

**C. Employees.**

**(1)** The OE shall adopt and implement a plan for making all employees, other than persons who are employed by the Board of Education, aware of the provisions of this Code of Ethics, the guidelines issued thereunder Section 10.9 of this Code of Ethics of the Charter of the Town of Marlborough and General Statutes Section 7-148h(b), as amended. The plan adopted by the OE shall contain a provision requiring that department heads review such provisions with all such employees at an interval to be determined by the Board of Selectmen. The plan shall be completed within 90 days after the adoption of this Code of Ethics, and a copy of the plan shall be filed with the Office of Ethics upon its adoption.

**(2)** Every employee, other than persons employed by the Board of Education, shall execute an acknowledgment form, supplied by the Town Clerk, indicating the employee's awareness of the provisions of this Code of Ethics, the guidelines issued thereunder and Section 10.9 of this Code of Ethics of the Charter of the Town of Marlborough and General Statutes Section 7-148h(b), as amended as follows:

**(a)** New employees shall execute the form at the time of employment and thereafter in accordance with Section 10.12, Subsections **C(2)** and **(b)** below.

**(b)** Current employees shall execute the form within 60 days after the adoption of the procedure set forth in Subsection **C(1)** above and thereafter at intervals specified by the (OE), but in no event shall such intervals be less frequent than a period of two years from the date of signing the last acknowledgement form.



**CODE OF ETHICS**

**Attachment 1  
Town of Marlborough CT  
Office of Ethics Complaint Form**

In accordance with Connecticut General Statutes, Chapter 10, Section 1-82 et seq.  
*Note: A complaint must be filed in confidence pursuant to Connecticut General Statutes Section 1-82a.*

Explain the conduct that you believe violated the Marlborough Code of Ethics and identify the person who you believe committed the violation:

Which sections of the Marlborough Code of Ethics do you believe were violated?  
Please be specific (e.g., Section 9-2).

Is there any additional information or evidence that may be helpful in addressing this complaint?

Your Name (printed):

Address:

Telephone number:

E-mail address:

I understand that I must keep this complaint confidential. Otherwise, the complaint may be dismissed.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Send to: Town of Marlborough Office of Ethics, PO Box 29, Marlborough, CT 06447.

## **CODE OF ETHICS**

### **Attachment 2 Town of Marlborough CT Office of Ethics Complaint and Hearing Procedures**

In accordance with Section 10.2, (C.2-4) of the Town of Marlborough Code of Ethics, The following rules and procedures for the filing of complaints and the conduct of hearings in connection with such complaints have been adopted by the Office of Ethics, herein referred to as the “Office”, as of December 2, 2021.

- 1) All complaints alleging a violation of the Code of Ethics shall be in writing, conforming to the Office of Ethics Complaint Form, and must be signed and dated by all complainants. Anonymous complaints will be reviewed and acted upon accordingly. In accordance with Connecticut General Statutes Section 1-82a, as amended, all such complaints shall be confidential unless made public by the person against whom the complaint is made (herein referred to as the “respondent”). Failure by the complainant to observe the confidentiality required by the statute may result in summary dismissal of the complaint. Complaints shall address specific provisions of the Marlborough Code of Ethics and/or contain sufficient detail to permit the OE to identify the appropriate section of the Code that is the subject of the complaint.
- 2) Complaints shall be submitted in writing on the Office of Ethics Complaint Form which can be obtained from the Town Clerk or downloaded from the Town of Marlborough website under the Office of Ethics tab. If written, the complaint form may be hand-delivered in a sealed envelope to the Marlborough Town Clerk or mailed to the Office of Ethics (herein referred to as the “Office”) at PO Box 29, Marlborough, CT 06447. Otherwise, the complaint may be electronically sent to the Office of Ethics on the secure link located on the Town of Marlborough website under the Office of Ethics tab.
- 3) Upon receipt of a complaint, the Office will promptly inform the respondent by Certified mail that a complaint has been filed against him/her. Within fourteen (14) Business days, the Office shall conduct a preliminary review of the complaint to determine whether there is probable cause to initiate an investigation. If the complaint fails to provide sufficient information, upon which the Office can take appropriate action or fails to fall within the Office’s purview, the Office may dismiss the complaint without further proceedings and send a Letter of Dismissal to the complainant by certified mail and file a copy of the letter in the OE confidential file.
- 4) If the Office determines that the complaint warrants an investigation, the Office will initiate such. As part of the investigation, the respondent shall have the right to

be heard. The investigation shall render a finding of substantiation or unsubstantiation of the complaint and a confidential report in the form of a Memorandum of Findings shall be presented to the respondent and the Board of Selectmen or, as is the case, the Board of Education.

5) In accordance with Connecticut General Statutes Section 1-82a, as amended, not later than three days after the termination of the investigation, the Office shall inform, by certified mail, the complainant and respondent of its finding and provide them a summary of its reasons for making that finding. If the Office does not substantiate a complaint, the complaint and the record of its investigation shall remain confidential, except upon request of the respondent, and except further that some or all of the record may be used in subsequent proceedings. If the Office substantiates the complaint, such finding shall be forwarded, not later than three days after the termination of the investigation, to the Board of Selectmen with respect to respondents under its jurisdiction or to the Board of Education with respect to respondents under its jurisdiction. In the case of a consultant, the finding shall also be sent to the contracting agency. The finding shall also be made public, except as set forth in Section 1-82a.

6) Upon receipt of a Memorandum of Findings which substantiate the complaint, the Board of Selectmen shall set a date for a hearing, upon request of the respondent, on the complaint which is not less than 10 days nor more than 30 days after notice has been given to the respondent.

7) All hearings by the Board of Selectmen shall be conducted in executive session in accordance with Connecticut General Statutes Section 1-82a, as amended, with confidentiality rules strictly adhered to; provided, however, in the case of a nonpublic hearing, the respondent shall have the right to a public hearing. All parties shall have the right to legal counsel at their own expense. All parties are permitted to produce witnesses and to cross-examine witnesses. The Board of Selectmen reserves the right to call additional witnesses. Witnesses shall testify under oath. All parties shall have the right to be fully heard; provided, however, that the Board of Selectmen or Board of Education, as the case may be, reserves the right to remove any person from the hearing room for cause shown. Any party to the proceeding may introduce relevant documentary evidence. In nonpublic hearings, evidentiary documents shall be subject to the confidentiality rules.

8) Aside from the hearing process, the Board of Selectmen may conduct such other investigations as it deems necessary to reach a conclusion on a complaint, and the results of any such investigation shall be disclosed to the parties.

9) Upon conclusion of a hearing, the Board of Selectmen or the Board of Education, as the case may be, shall dismiss the complaint or, if not dismissed, that the respondent be: a) reprimanded, b) publicly censured or c) terminated in accordance

with Code of Ethics Section 10.2 (C) (4) and other applicable law. The Board of Selectmen or the Board of Education, as the case may be, shall notify the respondent of its decision in a Memorandum of Decision by certified mail.

**10)** By agreement of the Board of Selectmen or the Board of Education, as the case may be, and the parties in any proceeding conducted under the Code of Ethics and these rules, rules and procedures may be modified to accommodate a particular circumstance, provided that any such modification shall be in accordance with applicable law.

## CODE OF ETHICS

### Attachment 3 Town of Marlborough CT Office of Ethics Guidelines for Gifts and Favors

The following guidelines are issued to delineate gifts and favors deemed to be of no substantial value and permissible under the provisions of Section 10.7 of the Town of Marlborough Code of Ethics:

1. The acceptance of a small gift, the denial of which would appear discourteous, provided the value of the gift does not exceed approximately \$50 from a single donor or \$100 per calendar year from a single donor, is permitted.
2. If a gift is received which is of such insignificant consequence that the cost of its return exceeds the value of the gratuity, it may be accepted.
3. Inexpensive advertising novelties, such as pens, calendars, and other such items customarily distributed to both the public and private sector, may be accepted.
4. An occasional meal or entertainment event may be accepted if it is in the ordinary course of business, but under no circumstances shall a meal or other event be accepted if the value exceeds approximately \$50. Occasional means: infrequent, without regularity, and generally not to exceed six or eight occasions per year.
5. Any other offer for travel, meals or entertainment is prohibited unless:
  - (a) it is part of an event related to the Town's business in which the employee or public officials from other municipalities are also offered the same benefit; and
  - (b) the event is approved in advance by the Selectmen Chair in the case of Town officials and employees, or the Superintendent of Schools in the case of Board of Education officials and employees. Any such approvals by the Selectmen Chair or Superintendent of Schools which exceed \$50 in value shall be reported in writing to the Chair of the Office of Ethics within ten (10) business days following the date of approval giving a description of the event, the approximate dollar amount involved, and the reason for the approval.

6. Acceptance of a gift, meal, entertainment event or other gratuity from a family member or person having a close relationship who would ordinarily be giving or exchanging gifts for special occasions such as religious holidays, birthdays, birth or adoption of a child are allowed unless the donor has a matter pending where the recipient of the gift has decision making authority.

**CODE OF ETHICS**

**Attachment 4**

**Town of Marlborough CT**

**Office of Ethics**

**ACKNOWLEDGEMENT FORM**

I have read the Code of Ethics of the Charter of the Town of Marlborough and the Guidelines issued thereunder. I understand my responsibilities as a member of

\_\_\_\_\_, an employee of the Town or a consultant

retained by \_\_\_\_\_, and I am in compliance with the Charter and the Code of Ethics. I have indicated in the space below any areas of possible conflict, should that arise in matters before our board, commission, agency or department, and I agree to report any future conflicts under the provisions of Chapter X of the Charter.

Possible areas of conflict:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_