

**Preble Local Law No. 1 of the Year 2011**

**A LOCAL LAW PROVIDING A CODE OF  
ETHICS FOR TOWN OF PREBLE EMPLOYEES**

**Section 1: TITLE:**

The title of this Local Law shall be “Town of Preble Code of Ethics.”

**Section 2: AUTHORIZATION:**

This Local Law is adopted pursuant to Article 18, §806, of the General Municipal Law of the State of New York.

**Section 3: PURPOSE:**

The purpose of this local law is to convey standards of ethical conduct to officers and employees of the Town of Preble and serve as a guide for the official conduct of the officers and employees of the Town of Preble.

**Section 4: SCOPE:**

a) This local law applies to all Town of Preble officers, employees, and members of all boards and commissions (Town Representatives). The proper operation of Town government requires that its Town Representatives be independent, impartial, objective, unbiased and responsible to the people of the Town and to discharge faithfully the duties of their position, regardless of personal considerations. The Code of Ethics is intended to maintain high standards of fairness, honesty, integrity and respect for others. The Code of Ethics provides general principles of appropriate conduct and includes provisions to help avoid even the appearance of impropriety. It would be nearly impossible and overly cumbersome to try to capture all possible circumstances and situations that might present themselves in the Ethics of business within the Town. Therefore this Code of Ethics is not intended to be all-inclusive. The absence of a specific circumstance or situation does not relieve Town Representatives from acting responsibly or exercising high ethical standards. Town Representatives should conduct themselves within the spirit and intent of this Code of Ethics, and should seek advice or guidance if necessary.

b) By issuing this Code of Ethics, the Town does not wish to preclude neighborly conduct and acts of good will. This Code of Ethics is not intended to preclude either extending or receiving acts of kindness, expressions of appreciation, lending a helping hand, helping out in a personal emergency and other similar circumstances. Should a complaint of misconduct arise, it will be viewed by the Board of Ethics in terms of whether the act was intended to gain or give special favor, gain or give special consideration, influence a decision or to receive personal gain or position.

c) Any Town resident, Town Representative, supplier/contractor, outside government official or the general public may approach Town government with ethical misconduct or conflict of interest concerns as provided for herein.

**Section 5: DEFINITIONS:**

As used in this Local Law, the following terms shall have the meanings as indicated:

- a) “Town Representative” means an employee of the Town, an elected officer of the Town, whether paid or unpaid, a member of any administrative board, commission or other agency thereof whether elected or assigned or paid or unpaid. However, no person shall be deemed to be a Town Representative by reason of being an independent contractor performing services under contract or agreement with the Town. No person shall be deemed to be a Town Representative solely by reason of being a volunteer, such as a fireman or civil defense volunteer.
- b) “Interest” means any direct or indirect monetary or material benefit accruing to a Town Representative or a Town Representative’s: 1) spouse, child, step-child, sibling, or parent of the Town Representative, or a person claimed as a dependent on his or her latest individual state income tax; 2) a firm, partnership or association of which such Town Representative is a member or employee; 3) a corporation of which such Town Representative is an officer, director or employee, and; 4) corporation, any stock of which is accrued or controlled directly or indirectly by such Town Representative.
- c) “Immediate Family” means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, and/or mother-in-law. It shall also pertain to any person living in the Town Representative’s household.

**Section 6: CONFLICTS OF INTEREST:**

No Town Representative may take action that provides a financial or other personal benefit to his or her: (1) immediate family; (2) customers or clients; (3) employer; or (4) a person who has made campaign contributions to the Town Representative within a twelve month period. No Town Representative shall invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties. No Town Representative shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Town agency or board of which he or she is an officer, member or employee, or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee. Town Representatives must disclose to the Town Board if they or immediate family have any direct or indirect interest in a company doing business with or being considered to do business with the Town of Preble. To the extent that he or she knows

thereof, a Town Representative, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation 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 has in such legislation.

### **Section 7: APPEARANCE OF IMPROPRIETY:**

A Town Representative must avoid circumstances that compromise his or her ability to make decisions solely in the public interest or create an appearance of impropriety.

### **Section 8: RECUSAL**

A Town Representative must recuse himself or herself when faced with the above conflicts. Recusal means that the Town Representative may not deliberate, vote or participate in any way in that matter. The Town Representative should disclose his or her conflict and remove him or herself from the board. He or she should not provide input regarding the matter from the audience in his or her capacity as a member of the public. A Town Representative should remove himself or herself from any review, recommendation, or selection of any procurement transaction that involves such company.

### **Section 9: USE OF TOWN PROPERTY AND RESOURCES**

No employee may use town-owned property, assets or any resources for personal purposes or profit or to benefit any person. Use of these resources is restricted to the ethics of town business, for the benefit of all residents and to further an authorized public purpose. Any outside employment must be kept completely separate from town responsibilities. Town Representatives are prohibited from using town equipment, tools, time, property or other town resources for their outside employment activities. Any activity seeking private gain or pursuit of a personal business endeavor by an employee during work hours is prohibited.

### **Section 10: NEPOTISM**

Spouses and other family members of Town Representatives may not serve in positions whose duties conflict or appear to conflict within the duties of the official. They may not serve on a commission, board or body of which the Town Representative is a member.

### **Section 11: GIFTS**

A Town Representative may not solicit any gift or personal favor nor may he or she receive any gift or personal favors, whether financial or in any other form, from any person who is doing or seeking to do business of any kind with the town including applications for permits or approvals; has done business with the town during the last six months; or from a lobbyist representing a person before a town agency. A Town

Representative may not solicit or receive any gift or payment as a reward for exercise of Town Representative duties. Generally, a Town Representative may not receive or solicit any gift, creating the appearance that he or she may be influenced or that his or her responsibility to make impartial decisions solely in the public interest is compromised. Gifts as used in this section excludes gifts from family members; attendance at local social events such as holiday festivities; benefits available to the general public; acceptance of an award; functions that officials routinely attend, such as chamber of commerce events; acceptance of promotional items; and an event or activity fulfilling a public purpose.

### **Section 12: PRIVATE EMPLOYMENT**

A Town Representative shall not solicit, negotiate for or commit to accept private employment from any person doing business with or having any matter pending with the town or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her duties. Otherwise, Town Representatives may engage in outside employment.

### **Section 13: REPRESENTATION**

A Town Representative shall not appear on behalf of or represent a person in any matter before a municipal agency except on his or her own behalf.

### **Section 14: CONFIDENTIAL INFORMATION**

A Town Representative or former Town Representative may not disclose confidential information or use it to further his or her or another person's private interests or in any way utilize the information for non-public purposes.

### **Section 15: POLITICAL SOLICITATION**

No Town Representative shall solicit political contributions from subordinates or request that they attend political functions or engage in any political activity.

### **Section 16: FORMER EMPLOYMENT**

No Town Representative who has left municipal service shall appear before or receive compensation in a matter before his or her former agency for a period of one year after departure. He or she is permanently barred from appearing or receiving compensation regarding a matter he or she was personally involved in as a town official.

## **Section 17: INCOMPATIBLE POSITIONS**

A Town Representative is prohibited from holding more than one position with the Town of Preble when one is subordinate to the other or holding more than one position with the Town of Preble when the duties of the positions conflict.

## **Section 18: DISCRIMINATION:**

The Town work environment should be free from discrimination on the basis of race, religion, sex, age, disability, national origin, marital status, veteran status or sexual orientation. This policy applies to hiring practices, administration of activities within Town operations and government and between Town Representatives and Town Residents.

## **Section 19: USE OF ALCOHOL OR ILLEGAL DRUGS**

No Town Representative shall consume alcoholic beverages or illegal drugs during working hours. No Town Representative should report to work under the influence of alcohol or illegal drugs.

## **Section 20: DEADLY WEAPONS**

No Town Representative while carrying out responsibilities of their Town position shall be in the possession of a deadly weapon as defined in Section 10:00 Subdivision 12 of the NYS Penal Law.

## **Section 21: BOARD OF ETHICS**

- a) The Preble Town Board hereby establishes a Board of Ethics, who shall serve at the pleasure of the Preble Town Board. The Board shall be comprised of at least three members, the majority of whom shall not be Town Representatives, but shall include at least one member who is a Town Representative. The Town's attorney shall serve as counsel to the Board of Ethics except in any matter where a conflict of interest may exist.
- b) The term of office for Board of Ethics members shall be five years. No member shall serve more than two consecutive terms.
- c) Meetings of the Board shall be held at the call of any member on at least three days written notice, mailed to the last-known address of the members. Minutes shall be kept for every meeting. It is recognized that reputations of Town Representatives can be wrongfully tarnished by false or misleading complaints. Therefore, to the extent allowed by law, the Board of Ethics shall be exempt from the Freedom of Information Law and

from the Open Meetings Law when reviewing complaints. Discussions held in Executive Session shall remain confidential and will not be disclosed.

d) Board of Ethics members shall receive no salary or compensation for their services, but shall be entitled to actual and necessary reimbursement of expenses in performing the duties of their office.

e) Should a vacancy in the Board of Ethics arise, the Town Board shall appoint a person to serve out the remainder of the term.

f) Any member of the Board of Ethics may be removed by the Town Board for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of his or her office or violation of the Code of Ethics.

## **Section 22: POWERS AND DUTIES OF THE BOARD OF ETHICS**

a) The Board of Ethics shall have the powers and duties prescribed by Article 18, §808, of the General Municipal Law of the State of New York and as set forth herein, and shall render advisory opinions to the officers and employees of the Town with respect to the Code of Ethics and Article 18 of the General Municipal Law, and under such rules and regulations as the Town Board may prescribe.

b) The Board of Ethics shall have the authority to take testimony under oath recognizing that false statements given under oath can be forwarded to the Cortland County District Attorney's Office for possible criminal prosecution.

c) The Board shall have the authority to receive from any person a written complaint questioning the compliance of any Town Representative with the provisions of the Code of Ethics or addressing conflict of interest concerns.

d) The complaint shall be in writing, must include the complainant's name, address and phone number and shall be signed by the complainant. The written complaint shall set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s), or the condition(s) that exists that creates a potential for a conflict of interest. The complaint should include date(s), time and place of each occurrence, and the name of the Town Representative(s) charged with the violation(s). Preferably, the complaint shall identify the section of the Code of Ethics that has been allegedly violated.

e) Any document identified as a complaint that is received by the Town Board or a Town Representative shall be forwarded, unaltered, to the Board of Ethics.

f) The Board of Ethics may on its own initiative conduct an inquiry of a Town Representative's alleged non-compliance with the provisions of the Code of Ethics upon receipt of substantial, reliable 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.

g) Upon receipt of a complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the Town Representative who is the subject of the complaint and to the Town's attorney.

h) All complaints until completely investigated are considered alleged violations or conflicts of interest, and as such, are to be kept in the confidential records of the Board of Ethics. Board of Ethics members, the Town Board or any other Town Representative having knowledge about a complaint, and any details thereof, shall keep all complaints, information and discussions thereof, confidential before and during investigation.

i) Within 30 days after receipt of a complaint, the Board of Ethics shall conduct a preliminary investigation.

j) 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:

- 1) the members of the Board of Ethics may obtain legal advice from the Town's attorney or special counsel as the case may be;
- 2) the members of the Board of Ethics may discuss the complaint among themselves;
- 3) 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 meeting of the Board of Ethics.

k) The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine whether there is probable cause for the complaint. In the event that the Board of Ethics should find no probable cause for the complaint, the Board of Ethics shall dismiss the complaint. If the complaint is dismissed, it shall be done in writing, setting forth the facts and the provisions upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant, to the Town Representative who is the subject of the complaint, to the Town Board and to the Town's attorney. The complaint shall not be disclosed to the public (other than to the complainant) and all records shall be maintained in the confidential files of the Board of Ethics for a period of seven years, after which it shall be destroyed. The Town Representative who is the subject of the complaint may make a written request to the Town Board to make the findings public. The Town shall then honor any such request.

l) In the event that the Board of Ethics has no basis to dismiss the complaint, it shall proceed with an investigation. At such point the Board of Ethics shall forward to the Town Board a copy of its initial position together with any information and documentation acquired by the Board of Ethics regarding the complaint.

m) An investigation should then proceed. Since complaints will vary in nature, so too may the approach taken to investigate a complaint vary. The Board of Ethics may seek advice on how to proceed with individual investigations. The Board of Ethics shall have final say in determining how an investigation shall proceed. The Board of Ethics shall seek to make sure that both the complainant and the Town Representative who is the subject of the complaint have an opportunity to be heard and to present evidence. The Board of Ethics may limit the testimony and evidence that is presented to it, if in the opinion of the Board the testimony and evidence in question is irrelevant, unnecessary, redundant, or unreliable.

n) 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, to the extent possible, from such other qualified people.

o) The Board of Ethics may require, with sufficient written notice, any Town Representative to appear before it to provide testimony regarding pending complaints. The Board of Ethics, for this purpose, may administer oaths and require the production of evidence, such as documents.

p) The Town Representative who is the subject of the complaint may submit a written sworn response to the Board of Ethics.

q) Should satisfactory cooperation not be forthcoming by the accused Town Representative, or by any witness, the Board of Ethics upon a majority vote of the total voting membership of the Board, may issue subpoenas to compel the attendance of the Town Representative charged with the violation or necessary witnesses, to a hearing. Subpoenas may also be used to obtain the production of documents and other materials pertinent to the investigation. The Town's attorney will advise and assist the Board in the use, preparation and issuance of subpoena(s).

r) A copy of the transcript of the testimony of the Town Representative who is the subject of the complaint shall be provided at no cost to the Town Representative.

s) The Town Representative who is the subject of the complaint shall have the right to be represented by counsel.

t) Upon completion of its investigation, the Board of Ethics shall prepare a written report detailing its review and provide a recommendation to the Town Board regarding the disposition of the complaint. A copy shall be forwarded to the Town's attorney. The complaint, records, other proceedings related thereto, and report, up to this point in the process, shall remain confidential.

u) The Board of Ethics' report will identify, in the Board's judgment, whether or not the complaint is a violation of the Code of Ethics or if a conflict of interest exists. The Board's assessment shall be binding unless new evidence is brought to bear on the subject. Upon review and authorization of the report by the Town Board and concurrence from the Town's attorney, the Board of Ethics shall furnish the complainant and the Town Representative who is the subject of the complaint with a disposition of the complaint.

v) Should a complaint be deemed to not violate the Code of Ethics or be a conflict of interest, the complaint shall not be disclosed to the public (other than to the complainant), to avoid the potential for tarnishing the accused Town Representative's reputation. The Town Representative who is the subject of the complaint may make a written request to the Town Board to make the findings public. The Town shall then honor any such request. All records shall be maintained in the confidential files of the Board of Ethics for a period of seven years, after which it shall be destroyed.

w) Should a complaint be deemed to be a violation of the Code of Ethics, The Town Board shall determine disciplinary action. Should the complaint be deemed to be a conflict of interest matter, the Town Board shall take appropriate steps to mitigate the matter. Details of the report shall not be made public (other than to the complainant) unless it is determined necessary to do so by the Town Board. The Town Representative who is the subject of the complaint may make a written request to the Town Board to make the findings of the report public. The Town shall then honor any such request. All records shall be maintained in the Town Representative's confidential personnel file for a period consistent with NYS Law.

### **Section 23: DISTRIBUTION OF CODE OF ETHICS**

The Town Supervisor shall ensure that a copy of the Code of Ethics be distributed to every Town Representative within thirty days after the effective date of this local law or any revision there to. Each Town Representative elected or appointed thereafter shall be furnished a copy of the Code of Ethics before entering upon the duties of his or her office or employment. It shall be the responsibility of the supervisor of any new employee to ensure that the new employee familiarizes himself/herself with the provisions of this local law and the Code of Ethics.

**Section 24: PENALTIES**

In addition to any penalty contained in any other provisions of law, any person who shall violate any of the provisions of the Code of Ethics may be reprimanded, fined, suspended or removed from office or employment, as assessed by the Town Board, in the manner provided by law. The Board of Ethics shall not have the power to impose any monetary or other penalty.

**Section 25: TRAINING**

Each Town Representative shall receive training concerning the requirements of the code of ethics and the procedure for seeking an opinion or investigation by the Board of Ethics. Copies of the code and amendments to the code shall be provided to all officials. Said training shall occur bi-annually prior to March 1 of each even-numbered calendar year.

**Section 26: SEPARABILITY**

Each separate provision of this Local Law shall be deemed independent of all other provisions herein and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

**Section 27: REPEALER**

This Local Law shall supersede any previously adopted Code of Ethics enacted through Local Law, Ordinance, Rule and Regulation of the Town of Preble, and they shall be upon the effectiveness of this Local Law, null and void.

**Section 28: EFFECTIVE DATE:**

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

By Order of the Town Board

Dated: April 11, 2011

/s/ \_\_\_\_\_  
Jane Davenport, Town Clerk