

## LOCAL LAW NO. 8 FOR 2011

### A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ESTABLISHING A NEW CODE OF ETHICS AND FINANCIAL DISCLOSURE LAW FOR OFFICIALS AND EMPLOYEES OF ALBANY COUNTY GOVERNMENT

Introduced: 2/11/08

By Messrs. Horstmyer, Nichols, Higgins, Mss. Maffia-Tobler, McKnight, Messrs. Clay, Clenahan, Steck, Aylward, Bullock, Timmins, Mayo, Domalewicz, Commisso, Beston, Joyce, Gordon, Reilly, Ms. Connolly, Messrs. Ethier, Infante, McCoy, Morse, Ward, Ms. Benedict, Messrs. Carman, Clouse, Hoblock, Ms. Lockart, Messrs. Mendick, Tunny and Zeilman:

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ALBANY AS FOLLOWS:

#### **SECTION 1. Title.**

This local law shall be known and may be cited as the "Code of Ethics and Financial Disclosure Law of the County of Albany."

#### **SECTION 2. Repeal of Existing County Ethics Laws.**

Local Law No. 8 for 1992 is hereby repealed and replaced by this local law.

#### **SECTION 3. Purpose.**

The purposes of this local law are:

- (a) To establish high standards of ethical conduct for officers and employees of the County;
- (b) To afford officers and employees of the County clear guidance on such standards;
- (c) To promote the integrity of the governance and administration of the County and its agencies and administrative offices, and public confidence in the same, by requiring members, officials and employees of the County, whether elected or appointed, paid or unpaid, to be independent, impartial and free from conflicts of interest in fulfilling their public responsibilities;
- (d) To facilitate consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance the accountability of government to the people by requiring public disclosure of financial interests that may influence or be perceived to influence the actions of County officers

and employees; and

(e) To provide for the fair and effective administration of this local law.

#### **SECTION 4. Definitions.**

Unless otherwise stated or unless the context otherwise requires, when used in this local law:

1. “Ability to influence”, as used in this local law, shall mean that a County officer or employee has the power or duty to individually, or as a member of the County Legislature or a board of the County:
  - (a) negotiate, draft, authorize or approve a contract or agreement as between the County and a person engaged in business dealings with the County;
  - (b) authorize or approve payment to a person engaged in business dealings with the County under such contract or agreement with the County;
  - (c) audit bills or claims under such contract or agreement with the County; or
  - (d) appoint an officer or employee who has any of the powers or duties set forth above.
2. “Allowable gift value growth factor” shall mean the sum of one plus the inflation factor.
3. “Appear” and “appear before” shall mean communicating in any form, including, without limitation, personally, through another person, by letter, by telephone, or by electronic correspondence.
4. “Business” shall mean a commercial enterprise carried on for profit.
5. “Business dealings with the County” shall mean any transaction with the County involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any ministerial act.
6. “Business relationship” shall mean a contract or agreement with another person whereby one party to the dealing would receive services or goods in exchange for the payment from the other of a sum, fee, charge, or commission.
7. “Candidate” shall mean any person who, in an attempt to hold an elective position in the County Legislature or one of the Countywide elective offices set forth in Article 8 of the County Law: a) receives the nomination of a political party, b) files a designating petition for nomination at a primary election, c) seeks independent nomination and who obtains the requisite number of signatures on an independent nominating petition as required by Election Law section 6-142(2), or d) receives the designation of a committee to fill vacancies pursuant to Election Law sections 6-148 and 6-152. The terms

“party”, “designation”, “primary election”, “nomination” and “independent nomination” as used in this Local Law shall have the same meanings as those contained in New York Election Law section 1-104 and New York Election Law section 6-140.

8. “Confidential Information” shall mean any data acquired through the course of employment or public office with the County of Albany that is protected from disclosure by law.
9. “Corporation” shall include an artificial person or being, endowed by law with the capacity of perpetual succession, and shall include corporations organized as public, private, charitable, civil, domestic, foreign, close, open, municipal and not-for-profit institutions.
10. “County” means the County of Albany but shall not include the County Court.
11. “County officer or employee” shall mean any officer or employee of the County whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the County. “County officer or employee” shall not include:
  - (i) A judge, justice, officer, or employee of the unified court system; or
  - (ii) A member of an advisory board of the County if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the County, or to restrict the authority of the County to act. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this paragraph.
12. “Customer or client” shall mean (a) any person or entity to which a County officer or employee has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than one-thousand two-hundred fifty dollars (\$1,250), or (b) any person or entity to which the outside employer or business of a County officer or employee has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than one-thousand two-hundred fifty dollars (\$1,250), but only if the County officer or employee knows or has reason to know that his or her outside employer or business supplied such goods or services.
13. “Employer” shall mean any person who controls and directs a worker under an express or implied contract of hire.
14. “Ethics Commission” shall mean the Ethics Commission of the County of Albany established pursuant to this local law.
15. "Gift" shall mean anything of more than fifteen dollars (\$15) in value given to a County officer or employee in the aggregate on an annual basis in any form including, but not limited to money, service, loan, travel, lodging, means, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. The gift value provided for in this paragraph shall

be adjusted by the Ethics Commission in the manner provided for in section 18(6) of this local law and shall be referred to as the “allowable gift value limit”. The “allowable gift value limit” shall never exceed seventy-five dollars.

The following are excluded from the definition of a gift:

- (i) complimentary attendance, including food and beverage, at bona fide charitable or political events;
- (ii) complimentary attendance, food and beverage offered by the sponsor of a widely attended event. The term "widely attended event" shall mean an event: (A) which at least twenty-five individuals other than officers or employees of the County attend or were, in good faith, invited to attend, and (B) which is related to the attendee's duties or responsibilities or which allows the County officer or employee to perform a ceremonial function appropriate to his or her position. For the purposes of this exclusion, a County officer or employee's duties or responsibilities shall include but not be limited to either (1) attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting; or (2) for elected County officials, or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend, are residents of the County;
- (iii) awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;
- (iv) an honorary degree bestowed upon an officer or employee by a public or private college or university;
- (v) promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;
- (vi) goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as an officer or employee and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;
- (vii) gifts from a relative, member of the same household, or person with a personal relationship with the County officer or employee, including invitations to attend personal or family social events,

when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered: (A) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (B) whether the item was purchased by the donor; and (C) whether or not the donor at the same time gave similar items to other County officers or employees; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client;

- (viii) contributions reportable under article fourteen of the election law, including contributions made in violation of that article of the election law;
  - (ix) payment for meals for an attendee, panelist or speaker at an informational event or informational meeting when such payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus;
  - (x) provision of local transportation to inspect or tour facilities, operations or property located in Albany County, provided, however, that such inspection or tour is related to the individual's official duties or responsibilities and that payment or reimbursement for expenses for lodging, meals or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this local law;
  - (xi) meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants; and
  - (xii) food and beverage valued at thirty-five dollars (\$35) or less in the aggregate on an annual basis.
16. "High-ranking County position" shall mean any elected County office, any commissioner or deputy commissioner position, as well as Policy Making Official positions within the County Legislature, Office of the County Executive, Office of Management and Budget, and Office of Audit and Control, or the equivalents of such positions.
17. "Household" shall mean a person or group of people occupying a single dwelling.
18. "Inflation factor" shall mean the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending one month prior to the start of the coming fiscal year minus the average of the national consumer price indexes

determined by the United States department of labor for the twelve-month period ending one month prior to the start of the prior fiscal year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending one month prior to the start of the prior fiscal year, with the result expressed as a decimal to four places.

19. "Ministerial act" shall mean an action performed in a prescribed manner without the exercise of judgment or substantial personal discretion as to the propriety of the act.
20. "Official action" shall mean any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending before the County, or which may by law be brought before any County officer or employee, in the official capacity of such County officer or employee.
21. "Outside employer or business" shall mean:
  - (i) Any activity, other than service to the County from which the County officer or employee receives compensation for services rendered or goods sold or produced;
  - (ii) Any entity, other than the County of which the County officer or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or
  - (iii) Any entity in which the County officer or employee has an ownership interest, except a corporation of which the County officer or employee owns less than five percent of the outstanding stock. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.
22. "Particular matter" shall mean any case, proceeding, application, or transaction.
23. "Person" shall mean both individuals and entities, including a charity, business, or corporation.
24. "Personally identifiable information" shall mean information that can be used to uniquely identify, contact, or locate a single person or can be used with other sources to uniquely identify a single individual.
25. "Policy Making Official" shall mean those County officers or employees involved in the negotiation, authorization, or approval of County laws, rules, contracts, licenses, and permits.
26. "Professional license" shall mean a privilege granted by the State of New York to conduct an occupation or trade. For the purposes of this local law a professional license shall not include a license that permits a person to engage in practice as a physician, dentist, optometrist, podiatrist, pharmacist or chiropractor or other professional who provides services under title eleven of Article five of the Social Services Law.
27. "Referred to the firm" as used in this local law shall mean having intentionally and knowingly taken a specific act or series of acts to

intentionally procure for a firm or knowingly solicit or direct to such firm in whole or substantial part, a person or entity that becomes the client of such firm for the purposes of representation for a matter as defined in paragraphs (i) through (v) of subsection six (6) of subdivision four (4) of Section 11 of this local law, as the result of such procurement, solicitation or direction.

28. "Relative" shall mean the spouse, child, stepchild, parent or step-parent, sibling or step-sibling, or grandparent or grandchild of either a County official or the spouse of the County officer or employee, or any person claimed as a dependent by a County officer or employee on his or her latest income tax return, and the spouses or registered domestic partners of such relatives.
29. "Spouse" shall mean the husband, wife, or registered domestic partner of the reporting individual unless living separate and apart from the reporting individual pursuant to: (i) a judicial order, decree or a judgment, or (ii) a legally binding separation agreement.
30. "Subordinate officer or employee" shall mean a County officer or employee ranking below and performing under the direction of another officer or employee. For the purposes of this local law, an officer or employee, unless elected to his or her County position, is considered subordinate to each member and employee of the County Legislature.

## **SECTION 5. Code of Ethics for County Officers and Employees.**

### **1. General prohibition.**

A County officer or employee shall not use his or her official position or office, or take or fail to take any official action, in a manner which he or she knows or has reason to know may result in a personal financial benefit, not shared with a substantial segment of the population of the County, for any of the following persons:

- (a) the County officer or employee;
- (b) a member of his or her household, including a spouse and his or her dependents, or the employer or business of any of these people;
- (c) a relative, or the employer or business of a relative;
- (d) his or her outside employer or business;
- (e) a customer or client;
- (f) a person from whom he or she has received any gift during the preceding twelve (12) months.
- (g) a person to whom he or she owes more than one-thousand dollars (\$1,000);
- (h) a person who owes the County officer or employee more than two-hundred fifty dollars (\$250); and

- (i) a nongovernmental civic group, union, social, charitable, or religious organization of which a member of his or her household is an officer or director.

## **2. Recusal.**

A County officer or employee shall promptly recuse himself or herself from acting on a matter before the County when acting on the matter, or failing to act on the matter, may financially benefit any of the persons listed in subdivision one (1) of this section.

## **3. Gifts.**

(a) A County officer or employee shall not solicit or accept a gift from any person whose business dealings with the County such County officer or employee has had the ability to influence within the previous twenty-four (24) months unless under the circumstances it is not reasonable to infer that the gift was intended to influence such County officer or employee.

(b) A County officer or employee shall not solicit or accept a gift from any person who the County officer or employee knows or has reason to know has had business dealings within the previous twenty-four (24) months with the County agency by which such County officer or employee is employed unless under the circumstances it is not reasonable to infer that the gift was intended to influence such County officer or employee.

## **4. Representation.**

A County officer or employee shall not represent any other person in any matter that person has before the County nor represent any other person in any matter against the interests of the County.

## **5. Appearances.**

A County officer or employee shall not appear before any agency of the County, except on his or her own behalf or on behalf of the County agency or County office with which such officer or employee is employed.

## **6. Confidential information.**

A County officer or employee and any former County officer or employee shall not disclose any confidential information or use any such confidential information to further the personal or pecuniary interests of any person.



## **7. Use of County property.**

No County officer or employee shall use or permit the use of County property (including land, vehicles, equipment, materials and any other property) for personal convenience or profit, except when such use is available to County citizens generally or is provided as a matter of written County policy.

## **8. Political solicitation.**

Unless otherwise prohibited by law, officers and employees shall not be denied the right to support or refuse to support a political party or committee, or a candidate for public office. Officers or employees shall not coerce, or request or authorize another to coerce, any County officer or employee, consumer of County services, or County contractor to support or refuse to support a political party or committee, or a candidate for public office. Officers or employees shall not make use of a County workplace to request, or authorize another to use a County workplace to request, that any person participate in an election campaign or contribute to a political party or committee.

## **9. Revolving door.**

A County officer or employee holding a high-ranking County position shall not appear or practice before the County, except on his or her own behalf, for a period of one year after the termination of his or her County service or employment in such high ranking position. As to any particular matter on which the County officer or employee personally and substantially participated while in County service such County officer or employee shall never appear or practice before the County and shall never receive compensation for working on any such matter.

## **10. Use of name or image prior to election.**

The name or image of a County officer or employee shall not appear on any newsletter mailed or distributed to County residents, or in any advertisement published widely in the County, the cost of which is incurred by the County, within 75 days of any election for public office in which the County officer or employee is a candidate for such office.

## **11. Public safety.**

(a) No officer or employee of the Albany County Sheriff's Department shall have any interest in or be employed in the County of Albany by any business, company, corporation, partnership, association or individual for the purpose of providing private investigations, accident reconstruction, fire prevention, or fire inspection or any other activity related to such Public Safety officer's employment

with the County of Albany except as provided in paragraph (b) hereof.

(b) Paragraph (a) hereof shall not be construed as prohibiting membership or service in volunteer fire or emergency medical organizations. Additionally, public safety officers may be employed in the County of Albany for the purpose of providing security or traffic services.

## **12. Purchase of office.**

A County officer or employee shall not give or promise to give anything of value to any person or entity for being elected or appointed to any public office or for receiving a promotion or raise in any public entity.

## **13. Business relationships with subordinate officers or employees.**

A County officer or employee shall adhere to all rules promulgated by the Ethics Commission that pertain to the formation of business relationships as between subordinate and superior County officers or employees.

## **14. Gratuities.**

A County officer or employee shall not request or accept anything of more than nominal value from any person or entity other than the County in consideration for the performance of the duties of his or her County position.

## **15. Professionally licensed County Officials and Employees.**

A County official or employee with a professional license shall not knowingly have an ownership interest of five-percent (5%) or greater in any business, partnership, firm or corporation that has a contract with any County agency or any public benefit corporation whose members are appointed by the County Executive or the County Legislature.

## **16. County officials and employees authorized to conduct inspections and issue permits**

A County official or employee with the authority to conduct inspections or issue permit approvals shall not have an ownership interest of five-percent (5%) or greater in any business, partnership, firm or corporation that is engaged in business within the County of Albany where such business, partnership, firm or corporation conducts, as a regular and significant part of its business, matters requiring such inspections or such permits.

## **17. Avoidance of conflicts.**

County officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.

## **SECTION 6. Transactional Disclosure.**

1. Whenever a County officer or employee is required to recuse himself or herself under the Code of Ethics set forth in Section Five of this local law, he or she:

- (i) shall immediately refrain from participating further in the matter,
- (ii) shall promptly inform his or her superior, if any, and
- (iii) shall promptly file with the Ethics Commission a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board.

2. The County Legislature may choose to exempt certain County officers or employees from the requirements of this section in instances in which a County officer or employee, with respect to the same matter, has filed with the Ethics Commission a disclosure statement complying with requirements of this local law.

## **SECTION 7. Exclusions from the Code of Ethics and from Transactional Disclosure.**

The provisions of this local law shall not prohibit, or require recusal or transactional disclosure as a result of:

1. An action specifically authorized by statute, rule, or regulation of the state of New York or of the United States.
2. A ministerial act.
3. Gifts or benefits having a value of \$100 or less that are received by a County officer or employee listed in section 11 of the Domestic Relations Law of the State of New York for the solemnization of a marriage by that officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business.
4. Receipt of County services or benefits, or use of County facilities that are generally available on the same terms and conditions to residents or a class of residents in the County.
5. Representation of constituents by elected officials without compensation in matters of public advocacy, excluding conduct described in subdivision one (1) of Section 5.

6. Representation of County residents by County officials without compensation before any agency of the County (i) in matters regarding the delivery of County services or benefits on the same terms and conditions as the public generally, or (ii) in relation to an application for employment with the County, excluding conduct described in subdivision one (1) of Section 5.

7. County officers or employees appearing or practicing before the County or receiving compensation for working on a matter before the County after termination of their County service or employment where they performed only ministerial acts while working for the County.

8. Representation by an attorney employed by any department of the County or the County Legislature on behalf of such department, or member or members of the County Legislature against the interests of the County or a department of the County in matters in which the subject pertains solely to an official action of the County or such other agency, office, officer or employee of the County.

9. Action by a County officer or employee on the County budget, except that such County officer or employee shall not use his or her official position or office, or take or fail to take any action, to address a particular budget matter in a manner which he or she knows or has reason to know may result in a personal financial benefit for any of the persons listed in subdivision one (1) of Section 5 of this local law.

10. Approval only by a County officer or employee of the imposition of a rate of tax on sales and uses of tangible personal property and of services, and on occupancy of hotel rooms and amusement charges, pursuant to Article 29 of the Tax Law of the State of New York.

11. Actions covered by subdivision nine (9) of Section 5 of this local law by persons who separated from County service prior to the effective date of this local law.

12. Gifts received prior to the effective date of this local law. Nothing in this paragraph shall permit gifts otherwise prohibited by state or federal law.

## **SECTION 8. Inducement of Violations of the Code of Ethics.**

No person, whether or not a County officer or employee, shall induce or attempt to induce a County officer or employee to violate any of the provisions of this local law.

## **SECTION 9. Interests in Contracts with the County.**

### **1. Prohibited interests.**

No County officer or employee shall have an interest in a contract with the

County, or an interest in a bank or trust company, that is prohibited by section 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the County in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by section 804 of that law.

## **2. Disclosable interests.**

Any County officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the County shall publicly disclose the nature and extent of that interest to the extent required by section 803 of the General Municipal Law. The Clerk of the County Legislature shall cause a copy of that disclosure to be filed promptly with the Ethics Commission.

## **3. Violations.**

Any County officer or employee who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by section 805 of the General Municipal Law.

## **SECTION 10. Appearances by Outside Employers and Businesses of County Officers and Employees.**

1. Except as provided in subdivision three (3) of this section, the outside employer or business of a County officer or employee shall not appear before the particular agency, board or commission, including the County Legislature, served by such County officer or employee, or by which he or she is employed.

2. Nothing in this section shall be construed to prohibit the outside employer or business of a County officer or employee from

- (a) Appearing on its own behalf, or on behalf of the County before a County agency;
- (b) Seeking or obtaining a ministerial act; or
- (c) Receiving a County service or benefit, or using a County facility, which is generally available to the public.

3. In instances in which the outside employer or business of a County officer or employee appears before any agency, department, or office of the County, the County officer or employee that is employed by such outside employer or business shall refrain from participating in any matter that is the subject of such appearance.

## **SECTION 11. Annual Disclosure.**

## **1. Officers and employees required to file.**

Each Policy Making Official, as defined in subdivision twenty-five (25) of Section Four of this local law, candidates, officers and employees holding the job titles or positions indicated in Appendix A, and individuals who voluntarily serve on County boards, commissions and advisory councils shall be required to file a signed annual disclosure statement.

## **2. Time and place for filing.**

Annual disclosure statements shall be filed with the Ethics Commission:

- (a) Within forty-five (45) days after becoming subject to the requirements of subdivision one (1) of this section, unless the person is a candidate as defined in subdivision seven (7) Section 4 of this local law, in which case the annual disclosure form shall be filed within twenty (20) days after the filing by or on the behalf of such candidate with the Albany County Board of Elections of designating or independent nominating petitions for County office; and
- (b) No later than the fifteenth (15<sup>th</sup>) day of May of each year thereafter.

## **3. Extension of time for Filing a County of Albany Annual Financial Disclosure Statement**

1. The Ethics Commission shall be empowered to grant extensions of time for filing the financial disclosure statements. In order for the Ethics Commission to grant a request for an extension of time to file the financial disclosure statement beyond the May 15<sup>th</sup> deadline, the Commission shall find that there is justifiable cause for filing after the deadline or that application of the deadline will impose an undue hardship.

2. A request for an extension of time shall be filed with the Ethics Commission prior to the deadline for filing such annual financial disclosure statement, in Form C.

## **4. Annual disclosure forms.**

1. There shall be three forms of the annual statement of financial disclosure which shall contain all of the information in the forms at the end of this local law. Form A, as drafted by the Department of Human Resources in accordance with subsection four (4) of this subdivision, shall be completed by each Policy Making Official as defined in subdivision twenty-five (25) of Section 4 of this local law, and each candidate as defined in subdivision seven

(7) of Section 4 of this local law, except that Form B, as drafted by the Department of Human Resources in accordance with subsection five (5) of this subdivision, shall be completed by individuals who voluntarily serve on County boards, commissions and advisory councils. Form C, as drafted by the Department of Human Resources in accordance with subsection six (6) of this subdivision, shall be the form completed by each County officer and employee holding a high ranking County position, and each candidate as defined in subdivision seven (7) of Section 4 of this local law, who personally provides services to any person or entity, or works as a member or employee of a partnership or corporation that provides such services (referred to hereinafter as a “firm”). Form C shall require only disclosure of the identity of new clients or customers for whom services are provided on or after the effective date of this local law, or for new matters for existing clients or customers with respect to those services that are provided on or after the effective date of this local law. The Department of Human Resources shall draft a Form D, which shall be used by individuals requesting an extension of time for filing an annual statement of financial disclosure.

2. A copy of the appropriate financial disclosure form shall be included with every letter of appointment to paid reporting officers and volunteers to a County board or commission.

3. A comprehensible and concise document, the form and content of which shall be determined by the Ethics Commission, which provides instructions on the proper completion of an annual disclosure statement shall accompany any copy of an annual disclosure statement distributed by the County.

4. Form A, as described in subsection one (1) of this subdivision, shall require disclosure of the following:

- (a) The name of the County officer, employee, or candidate, the County position held or sought by such person, and the home address of such person;
- (b) With respect to each outside employer or business of the County officer, employee, or candidate:
  - (i) Its name (if any);
  - (ii) The nature of its business;
  - (iii) Whether it is self employment, a sole proprietorship, or an entity and, if an entity, what type of entity; and
  - (iv) The relationship of the officer or employee to it, such as owner, partner, officer, director, member, employee, or shareholder;
- (c) With respect to each outside employer or business

of the spouse, or household members of the County officer, employee, or candidate, the information required by paragraph (a) of this subsection;

(d) The location only of any real property within the County, or within one mile of the boundary of the County, in which the County officer, employee, or candidate, or his or her relative, has a financial interest;

(e) The name of any entity in which the County officer, employee, or candidate, or his or her spouse has an investment of at least five-percent (5%) of the stock, with such disclosure identifying the nature of the business and the type of business;

(f) The name and position of any relative in County service; and

(g) Each volunteer office or position that a County officer, employee, or candidate, or his or her spouse held during the previous twelve (12) months with any not-for-profit organization for which the officer or employee volunteered in a policymaking or administrative capacity.

5. Form B, as described in subsection one (1) of this subdivision, shall require disclosure of the following:

(a) The name of the County board or commission member, the County position held by such person, and the home address of such person;

(b) With respect to each outside employer or business of the voluntary member of County board or commission:

(i) Its name (if any);

(ii) The nature of its business;

(iii) Whether it is self employment, a sole proprietorship, or an entity and, if an entity, what type of entity; and

(iv) The relationship of the County officer or employee to it, such as owner, partner, officer, director, member, employee, or shareholder;

(c) With respect to each outside employer or business of the spouse, or household members of the voluntary member of County board or commission, the information required by paragraph (b) of this subsection;

(d) The location only of any real property within the County, or within one mile of the boundary of the County, in which the voluntary member of County board or commission, or his or her relative, has a financial interest;

(e) The name of any entity in which the voluntary



member of County board or commission, or his or her spouse has an investment of at least five-percent (5%) of the stock or debt of the entity; and

(f) The name and position of any relative in County service that is a subordinate to such voluntary member of County board or commission.

6. Form C, as described in subsection one (1) of this subdivision, shall require disclosure of the following:

(a) The name of the County officer, employee, or candidate, the County position held or sought by such person, and the home address of such person;

(b) The name and address of each client or customer whom was personally provided services by such County officer or employee holding a high-ranking County position or candidate for County officer, or who was referred to the firm by such official or candidate, and from whom such official or candidate or the firm of such official candidate earned in excess of two-hundred fifty dollars (\$250) during the preceding twelve (12) months for such services rendered in direct connection with:

(i) A proposed local law or resolution in the County legislature during the preceding twelve (12) months;

(ii) A contract from the County or any County agency for

(1) Equipment, commodities, or goods in an amount totaling \$10,000 or more;

(2) Public works in an amount totaling \$20,000 or more; or

(3) Professional services or consultant work in an amount totaling \$20,000 or more;

(iii) A grant of \$5,000 or more from the County or any County agency during the preceding twelve (12) months;

(iv) A grant obtained through a legislative initiative during the preceding twelve (12) months; or

(v) A case, proceeding, application or other matter that is not a ministerial matter before a County agency during the preceding twelve (12) months.

7. Subsection six (6) of this subdivision shall not require disclosure

of any lawful activity by a County officer or employee holding a high-ranking County position or a candidate for County office that is solely related to a ministerial act, the advocacy of any position in any matter in an official County capacity, provided that such advocacy is not performed for compensation by a person or entity other than the County, or the advocacy of any position in any matter in an official County capacity by a chairman of a County political committee. Subsection six (6) of this subdivision shall not require disclosure of clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services from a County officer or employee holding a high-ranking County position or candidate for County office or the firm of such official or candidate. A County officer or employee holding a high-ranking County position or candidate for County office need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. With respect to clients represented in other matters, where disclosure of a client identity is likely to cause harm, a high-ranking County official or candidate for County office shall seek a waiver from the Ethics Commission pursuant to Section 22 of this local law of the requirements of subsection six (6) of this subdivision. Only a County officer or employee holding a high-ranking County position who first enters public office on or after the effective date of this local law need not report clients or customers with respect to matters for which such officer or employee or his or her firm was retained prior to assuming such high-ranking County position.

## **5. Actual knowledge required.**

Failure to disclose the information required by this section with respect to a County officer's or employee's spouse or other relative shall not constitute a violation of that subdivision if the officer or employee does not have actual knowledge of such information.

## **SECTION 12. Applicant Disclosure:**

### **1. Generally.**

(a) Where a person requests the County or a County officer or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to the requestor and to either any officer or employee of the County or one of the other persons listed in Appendix A of this local law, the requestor shall disclose the names of any such persons, to the extent known to the requestor at the time of the request.

(b) If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in a writing filed with the County Clerk.

(c) A person shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed a disclosure statement complying with requirements subdivision two (2) of this section.

(d) All persons or entities engaged in business dealings with the County shall disclose whether he or she, or any executive, officer, or director of any such organization or business, or person holding an ownership interest in such business of greater than five-percent (5%) holds a position as an officer in a countywide political party committee.

## **2. Land use matters.**

Every application, petition, or request submitted for a variance, amendment, approval of a plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the planning regulations of the County shall state the information required, to the extent required, by section 809 of the General Municipal Law of the State of New York.

## **3. Violations**

Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by section 809 of the General Municipal Law.

## **SECTION 13. Void Contracts.**

1. Any contract or agreement entered into by or with the County which results in or from a violation of any provision of this local law shall be void unless ratified by the County Legislature. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this local law or any other provision of law.

2. No contract or agreement entered into or otherwise executed by or with the County which results in or from a violation of section 801 of the General Municipal Law shall be ratified in any manner by the County Legislature or any County agency, office, board, commission, public authority, or officer or employee of the County.

3. Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this local law shall be prohibited from entering into any contract with the County for a period not to

exceed three years, as provided in this local law.

4. No person, whether or not a County officer or employee, shall enter into a contract in violation of a bar imposed pursuant to subdivision three (3) of this section.

5. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public.

6. The County Legislature, or the Ethics Commission on behalf of the County, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture as provided for in subdivisions three (3) and four (4) of this section.

7. Under this section, a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

## **SECTION 14. Penalties; Hearings; Assessment of Penalties.**

### **1. Disciplinary action.**

(a) Any County officer or employee who engages in any action that violates any provision of this local law may be counseled, warned, admonished, reprimanded or suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this local law or in any other provision of law.

(b) In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Commission may recommend appropriate disciplinary action pursuant to this local law. The recommendation of the Ethics Commission shall be made to the appointing authority or person or body authorized by law to impose such sanctions. The Ethics Commission shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Commission refers the matter to the authority or person or body authorized by law to impose disciplinary action or unless the Commission refers the matter to the appropriate prosecutor. If such a referral is made, the Commission may adjourn the matter pending determination by the authority, person, body, or prosecutor.

## **2. Civil penalty.**

(a) Any County officer or employee who violates any provision of this local law may be subject to a civil penalty of up to twenty-five hundred dollars (\$2,500) for each violation. A civil penalty may be imposed in addition to any other penalty contained in any other provision of law or in this local law, other than a civil forfeiture pursuant to subdivision four (4) of this section. A civil penalty may not be imposed for a violation of section 9 of this local law.

(b) In its discretion and after a hearing providing for due process procedural mechanisms, the Ethics Commission may assess a civil penalty, as authorized by paragraph (a) of this subdivision, upon any County officer or employee found by the Ethics Commission to have violated this local law. The Ethics Commission shall conduct and complete the hearing with reasonable promptness. The civil penalty shall be payable to the County.

## **3. Damages.**

(a) Any person, whether or not a County officer or employee, who violates any provision of this local law shall be liable in damages to the County for any losses or increased costs incurred by the County as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this local law, other than a civil forfeiture pursuant to subdivision 4 of this section.

(b) The County Legislature, or the Ethics Commission on behalf of the County, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain damages as provided in paragraph (a) of this subdivision.

## **4. Civil forfeiture.**

(a) Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this local law may be subject to a civil forfeiture to the County of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this local law, other than a civil penalty pursuant to subdivision two (2) or damages pursuant to subdivision three (3) of this section. Civil forfeiture shall not be available for a violation of Section 9 of this local law.

(b) The County Legislature, or the Ethics Commission on behalf of the

County, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture as provided in paragraph (a) of this subdivision.

### **SECTION 15. Injunctive Relief.**

1. Any resident, officer, or employee of the County may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the County from violating this local law or to compel an officer or employee of the County to comply with the provisions of this local law. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

2. No action or special proceeding shall be prosecuted or maintained pursuant to subdivision 1 of this section, unless (a) the plaintiff or petitioner shall have filed with the Ethics Commission a sworn complaint alleging the violation by the officer or employee, or the Ethics Commission has made an initial determination that there is probable cause to believe that a public servant has violated a provision of this local law, (b) it shall appear by and as an allegation in the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Commission or issuance of a finding of probable cause by the Ethics Commission and that the Ethics Commission has failed to file a final determination in the matter, and (c) the action or special proceeding shall be commenced within ten months after the alleged violation occurred.

### **SECTION 16. Duties of the County Clerk.**

The County Clerk shall maintain a copy of the following documents:

- (1) A copy of the County's code of ethics and amendments thereto;
- (2) A statement that the County has established the Ethics Commission and the composition of the Ethics Commission;
- (3) A copy of the County's form of annual statement of financial disclosure;
- (4) The County Clerk shall transmit promptly to the Ethics Commission each transactional and applicant disclosure statement filed pursuant to this local law; and
- (5) The Ethics Commission shall index and maintain on file for at least seven (7) years all disclosure statements filed with the Commission.

### **SECTION 17. Designation of Officers and Employees Required to File Annual Disclosure Statements; Assistance by the Board of Elections.**

1. Within sixty (60) days after the effective date of this section, and no later than

the first day of March of each year thereafter, each elected executive branch official shall:

- (a) Cause to be filed with the Ethics Commission a list of the names and offices or positions of all County officers and employees subordinate to said elected official that are required to file annual disclosure statements pursuant to this local law; and
- (b) Notify, in a manner established by rule of the Ethics Commission, all such officers and employees of their obligation to file an annual disclosure statement.

2. Within sixty (60) days after the effective date of this section, and no later than the first day of March of each year thereafter, the Clerk of the Legislature shall:

- (a) Cause to be filed with the Ethics Commission a list of the names and offices or positions of all officers and employees of the County Legislature that are required to file annual disclosure statements pursuant to this local law; and
- (b) Notify, in a manner established by rule of the Ethics Commission, all such officers and employees of their obligation to file an annual disclosure statement.

3. Within twenty (20) days of the filings required in subdivisions one (1) and two (2) of this section, the Ethics Commission shall:

- (a) meet to determine whether the list of names and offices or positions provided to the Ethics Commission pursuant to subdivisions one (1) and two (2) of this section are complete and proper;
- (b) add or subtract names and offices or positions from said lists as the Ethics Commission deems appropriate; and
- (c) inform executive branch elected officials or the Clerk of the Legislature of any additional County officials or employees subordinate to or within the departments of said officials that shall be required to file an annual financial disclosure statement pursuant to this local law.

4. The Ethics Commission shall take reasonable measures to attempt to identify and notify candidates required to file an annual disclosure statement pursuant to this local law.

## **SECTION 18. Ethics Commission.**

### **1. Establishment; Qualifications of Members; Appointment of Members; Term of Office; Appointment of Certain Officers and Employees.**

1. There is hereby established an Ethics Commission consisting of five (5) members.

2. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards. No person while a member shall hold any public office, seek election to any public office, be an officer or

employee of the County of Albany, or hold any political party office. Of the total membership of the Commission, no more than two (2) members shall be enrolled in the same political party.

3. An Ethics Commission member may not participate in any election campaign for elective County office or any election campaign by any County officer or employee who is a candidate for any elective office.

4. Two (2) members of the Ethics Commission shall be recommended for appointment by the Majority Leader of the Albany County Legislature, one (1) member shall be recommended for appointment by the Minority Leader of the Albany County Legislature, and two (2) members shall be recommended for appointment by the County Executive. Said recommendations shall be to the Chairman of the Albany County Legislature, who may accept or reject such recommendations. The Chairman of the Albany County Legislature is the appointing authority for said Commission. However, he or she may act only upon the recommendation of the Majority Leader, Minority Leaders, and County Executive.

5. Each member of the Ethics Commission shall serve a four (4) year term except as provided for in subdivisions six (6) and seven (7) of this section.

6. The original members of the Ethics Commission shall serve at staggered terms in the following manner:

(a) One (1) appointment by the Majority Leader and one (1) appointment by the County Executive shall be for a term of two (2) years;

(b) One (1) appointment by the Minority Leader, one (1) appointment by the Majority Leader, and one (1) appointment by the County Executive shall be for a term of four (4) years.

7. The Ethics Commission shall appoint a Chairperson from its membership to serve for a term not to exceed (1) year. No person shall serve as Chairperson for a period in excess of two (2) consecutive years. The duties of the Chairperson shall include calling and conducting meetings of the Ethics Commission.

8. The Ethics Commission may, upon the recommendation of the County Attorney, appoint or designate a counsel employed by the Department of Law to serve at its pleasure and may employ, retain, or designate such other officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The County Attorney shall make such a recommendation within thirty (30) days of the creation of a vacancy in such position. The authority of the counsel shall be defined in writing, provided that neither the counsel, nor any other officer, employee or consultant of the board shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations of violations of this local law, or make final recommendations of or impose penalties. Upon such occasions as the Ethics Commission or the counsel to the Ethics Commission shall consider it appropriate that the Ethics Commission have outside counsel, the Ethics



Commission may retain or designate such counsel to serve with respect to particular matters. The Ethics Commission may delegate its authority to issue advisory opinions to the chair.

9. An Ethics Commission member shall serve until his or her successor has been appointed. Consecutive service on the Ethics Commission shall not exceed two four-year terms.

10. The members of the Ethics Commission shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

11. Revenue received by the Ethics Commission in the form of fines shall be directed the County General Fund.

## **2. Vacancies.**

When a vacancy occurs in the membership of the Ethics Commission, the vacancy shall, within sixty (60) days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Ethics Commission shall meet the qualifications set forth in section 18 of this local law.

## **3. Removal of Members.**

An Ethics Commission member may be removed from office in the same manner in which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in section 18 of this local law, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this local law.

## **4. Meetings.**

At its first meeting each year, the Ethics Commission shall elect a chair and Secretary from among its members. A majority of the Ethics Commission shall be required for the Ethics Commission to take any action. The chair or a majority of the Ethics Commission may call a meeting of the Ethics Commission.

## **5. Jurisdiction, Powers, and Duties.**

1. The Ethics Commission may act with regard to any matter arising under this local law to the extent provided in this local law.

2. The termination of a County officer's or employee's term of office or employment with the County shall not affect the jurisdiction of the Ethics Commission with respect to the requirements imposed on him or her by this local law.

3. The Ethics Commission shall have the following powers and duties:

- (a) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this local law;
- (b) To appoint hearing officers and request the services of other County officers and employees as are necessary to carry out its duties under this local law;
- (c) To designate officials required to file a financial disclosure statement, but the Ethics Commission must notify the Policy Making Official, the Chairman of the County Legislature and the respective commissioner of the agency by which such Policy Making Official is employed, if applicable, whenever any such officer or employee is designated as a Policy Making Official required to file an annual disclosure statement pursuant to this local law;
- (d) To review, index, and maintain on file lists of officers and employees, and disclosure statements filed with the Commission, pursuant to this local law;
- (e) To review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct investigations;
- (f) To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings;
- (g) To grant waivers;
- (h) To render, index, and maintain on file advisory opinions;
- (i) To provide training and education to County officers and employees;
- (j) To prepare an annual report and recommend changes to this local law;
- (k) To provide for public inspection and copying of certain records;
- (l) To select provisions of this local law for reproduction and distribution;
- (m) To promulgate rules governing certain conduct of County officers and employees in a manner that is consistent with the discretionary power afforded to Ethics Commission pursuant to this local law;
- (n) To promulgate rules governing the formation of business relationships as between subordinate and superior County officers and employees so as to prevent favoritism or undue influence, or the appearance of such behavior;
- (o) To cause to be published on the Internet website of the Ethics Commission a single document containing all rules of conduct for County officers and employees set forth in this local law;
- (p) To compute no later than twenty (20) days prior to the start of the coming fiscal year the allowable gift value limit for each fiscal year in the manner provided for in paragraph one (1) of subdivision six (6) of this section; and

(q) To promulgate rules consistent with other provisions of this local law concerning the representation by County elected officials in matters of public advocacy, or regarding an application for County services and benefits, or County employment.

## **6. Computation of the Allowable Gift Value Limit.**

1. The allowable gift value limit for a particular fiscal year shall be determined by ascertaining the actual allowable gift value limit figure for the prior fiscal year, beginning with the figure of fifteen dollars (\$15) for the remainder of the fiscal year in effect at the time of the effective date of this local law, and multiplying such figure by the allowable gift value growth factor, if any. The product of such calculation shall be referred to as the actual allowable gift value limit. The actual allowable gift value limit shall be rounded downward to the nearest whole dollar figure. Such rounded figure shall represent the allowable gift value limit for the forthcoming fiscal year.

2. The Ethics Commission shall cause to be published on the Internet website of the Ethics Commission the operative allowable gift value limit for the County.

3. The Ethics Commission shall include notice of, and guidance relevant to, the operative allowable gift value limit in its educational programs and materials developed pursuant to Section 25 of this local law.

## **SECTION 19. Review of Lists and Disclosure Statements.**

1. The Ethics Commission shall review:

(a) The lists of officers and employees, prepared pursuant to this local law, to determine whether the lists are complete and accurate. The Commission shall add the name of any other officer or employee who the Commission determines should appear on the list pursuant to section 11;

(b) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this local law;

(c) All transactional disclosure statements; and

(d) All applicant disclosure statements.

2. If the Ethics Commission determines that an annual disclosure statement or a transactional disclosure statement is deficient or reveals a possible or potential violation of this local law, the Ethics Commission shall notify such person in writing of the deficiency or possible or potential violation and of the penalties for failure to comply with this local law and afford such person fifteen (15) days to correct such statement.

## **SECTION 20. Complaints and Investigations.**

1. Upon receipt of a sworn complaint by any person alleging a violation of this local law, or upon determining on its own initiative that a violation of this local law may exist, the Ethics Commission shall have the power to conduct any investigation necessary to carry out the provisions of this local law. In conducting any such investigation, the Ethics Commission may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

2. The Ethics Commission shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the Commission.

3. Any person filing a sworn complaint with the Ethics Commission shall be notified in writing of the disposition of such complaint.

4. Nothing in this section shall be construed to permit the Ethics Commission to conduct an investigation of itself or of any of its members or staff. If the Ethics Commission receives a complaint alleging that the Ethics Commission or any of its members or staff has violated any provision of this local law, or any other law, the Ethics Commission shall promptly transmit to the County Legislature a copy of the complaint.

## **SECTION 21. Criminal prosecutions and Commission restrictions**

### **1. Prosecutions.**

The Ethics Commission may refer to the appropriate prosecutor possible criminal violations of this local law. Nothing contained in this local law shall be construed to restrict the authority of any prosecutor to prosecute any violation of this local law or of any other law.

### **2. Limits on Commission.**

Nothing in this section shall be construed to permit the Ethics Commission to take any action with respect to any alleged violation of this local law, or of any other law, by the Commission or by any member or staff member thereof.

## **SECTION 22. Waivers.**

1. Upon written application and upon a showing of compelling need by the applicant, the Ethics Commission may in exceptional circumstances grant the

applicant a waiver of any of the provisions of subdivisions one (1) through sixteen (16) of section five (5), paragraph (i) of subdivision 1 of section 6, subdivision one (1) of section ten (10), section eleven (11), or section twelve (12) of this local law, provided, however, that no such waiver shall permit conduct or interests otherwise prohibited by Article 18 of the General Municipal Law of the State of New York.

2. Waivers shall be in writing and shall state the grounds upon which they are granted. All applications, decisions, and other records and proceedings relating to waivers shall be indexed and maintained on file by the Ethics Commission.

### **SECTION 23. Advisory Opinions.**

1. Upon written request, the Ethics Commission may render a written advisory opinion with respect to the interpretation or application of this local law or of Article 18 of the General Municipal Law of the State of New York. The request may be made only by the person whose conduct is at issue or by a supervisory official of such a person.

2. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Commission.

3. Any person aggrieved by an advisory opinion of the Ethics Commission may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

4. Any person who has submitted to the Ethics Commission a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Commission to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with section 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this subdivision unless (a) it shall appear by and as an allegation in the petition or complaint that at least one-hundred eighty (180) days have elapsed since the filing of the request and that the Ethics Commission has failed to file any determination in the matter and (b) the action or special proceeding shall be commenced within ten (10) months after the submission of the request for the advisory opinion.

5. A formal written opinion rendered by the Ethics Commission, until and unless amended or revoked, shall be binding on the Ethics Commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action. The Ethics Commission shall not investigate an individual for potential violations of law

based upon conduct approved and covered in its entirety by such an opinion, except that such opinion shall not prevent or preclude an investigation of the person who obtained it for violations of this local law to determine whether the person accurately and fully represented to the Ethics Commission the facts relevant to the formal advisory opinion and whether the person's conduct conformed to those factual representations. Nothing in this paragraph shall be construed as denying the Ethics Commission the authority and jurisdiction to investigate potential violations of this local law arising from conduct outside of the scope of the terms of the advisory opinion.

#### **SECTION 24. Judicial Review.**

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

#### **SECTION 25. Training and Education.**

1. The Ethics Commission:

(a) shall make information concerning this local law and Article 18 of the General Municipal Law available to all County officers and employees, to the public, and to persons interested in engaging in business dealings with the County; and

(b) shall develop educational materials and an educational program for the officers and employees of the County, on the provisions of this local law and Article 18 of the General Municipal Law.

2. All County Policy Making Officials shall participate in an education program developed in a manner prescribed by the Ethics Commission. Such participation shall occur on a biennial basis.

#### **SECTION 26. Annual Reports; Review of Ethics Laws.**

1. The Ethics Commission shall prepare and submit an annual report to the County Executive and County Legislature, summarizing the activities of the Commission. The report may also recommend changes to the text or administration of this local law.

2. The Ethics Commission shall periodically review this local law and the Commission's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in County government and whether they set forth clear and enforceable, common sense

standards of conduct.

## **SECTION 27. Public Inspection and Copying of Records; Public Access to Meetings.**

1. The only records of the Ethics Commission which shall be available for public inspection and copying are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other State or Federal law or regulation.

2. No meeting or proceeding of the Ethics Commission concerning misconduct, nonfeasance, or neglect in office by a County officer or employee shall be open to the public except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other State or Federal law or regulation.

3. The Commission shall maintain an index of all persons found to be in violation of this local law, by name, office and date of order. The index and the determinations of probable cause and orders in such cases shall be made available for public inspection and copying.

## **SECTION 28. Miscellaneous provisions.**

1. No existing right or remedy shall be lost, impaired, or affected by reason of this local law.

2. Nothing in this local law shall be deemed to bar or prevent a present or former County officer or employee from timely filing any claim, account, demand, or suit against the County on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

3. If any provision of this local law is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this local law.

## **SECTION 29. Distribution and posting.**

1. Within 90 days after the effective date of this section, and thereafter as appropriate, the Ethics Commission shall transmit to the County Executive in a form suitable for posting, copies of those provisions of this local law which the Ethics Commission deems necessary for posting in the County. Within ten days after receipt of those copies, the County Executive shall cause the copies to be posted conspicuously in every public building under the jurisdiction of the County, as well as on the County's website.

2. Within 90 days after the effective date of this section, and thereafter as

appropriate, the Ethics Commission shall transmit to the County Executive in a form suitable for distribution, copies of those provisions of this local law which the Ethics Commission deems necessary for distribution to the officers and employees of the County. Within ten days after receipt of those copies, the County Executive shall cause the copies to be distributed to every officer and employee of the County and made readily available to the public. Every County officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within ten days after entering upon the duties of his or her position. Every County officer or employee elected or appointed shall be notified by the County Executive of their obligation to file a disclosure statement required by this local law within ten days after entering upon the duties of his or her position.

3. Failure of the County to comply with the provisions of this section or failure of any County officer or employee to receive a copy of the provisions of this local law shall have no effect on the duty of compliance with this local law or on the enforcement of its provisions.

4. The Ethics Commission shall publish the following on the County Internet website:

- (a) All rules and regulations prescribed or promulgated by the Ethics Commission pursuant to this local law;
- (b) A copy of the annual report of the Ethics Commission;
- (c) A list of all officers and employees required to file financial disclosure statements with the Ethics Commission;
- (d) A list of members of the Ethics Commission along with the following information that corresponds to each Ethics Commission member:
  - (i) appointing County official;
  - (ii) party affiliation; and
  - (iii) period of term;
- (e) Any correspondence or document generated by the Ethics Commission that executes a ruling, decision, or determination by the Ethics Commission ordering, instructing or recommending the assessment of penalties;
- (f) Any correspondence or document generated by the Ethics Commission that promulgates or communicates a recommendation or advisory opinion by the Ethics Commission to a County officer or employee, but only if such correspondence or document contains no personally identifiable information of the requestor of such recommendation or advisory opinion; and
- (g) A copy of any waiver application made pursuant to Section 22 of this local law.

5. Any document or material required to be published by the Ethics Commission on the County Internet website shall be transmitted to the webmaster of such website within ten (10) days of its execution, completion, compilation, approval or generation by the Ethic Commission, or submission to the Ethics Commission,



whichever the case may be. The webmaster shall then publish such documents or material on such website within twenty (20) days of his or her receipt of such documents or material.

**SECTION 30. Effective Date.**

This local law shall take effect on July 1, 2012.

## APPENDIX A

1. Clerk of Legislature
2. Deputy Clerk
3. First Deputy Clerk
4. Director of Research
5. Chief Assistant District Attorney
6. Assistant District Attorney
7. Chief Investigator
8. Assistant Public Defender
9. Public Defender
10. Assistant Alternate Public Defender
11. Alternate Public Defender
12. Chief Criminal Investigator
13. Coordinator of Assigned Counsel
14. Alternative Sentencing Coordinator
15. Alternative Sentencing Asst. Coordinator
16. Assistant County Executive
17. Budget Director
18. Senior Program Analyst
19. Program Analyst
20. Director of Operations
21. Executive Assistant
22. Business Development Analyst
23. Executive Legislative Liaison
24. Assistant Program Analyst
25. Motor Pool Coordinator
26. Director of Finance
27. Executive Deputy Director
28. Deputy Director
29. Director
30. Manager of Data Processing
31. Manager of Systems and Programming
32. Senior Computer System Analysts
33. Senior Computer Programmer
34. Associate Operating Supervisor
35. Supervisor of User Services
36. Executive Deputy Comptroller
37. Deputy Comptroller
38. First Deputy Comptroller
39. Purchasing Agent
40. Deputy Purchasing Agent
41. Business Office Manager

42. Printing Coordinator
43. Assistant Administrator
44. Maintenance Supervisor
45. Deputy County Clerk
46. Executive Deputy County Clerk
47. Executive Director
48. County Attorney
49. First Assistant County Attorney
50. Assistant County Attorney
51. Commissioners
52. Senior Associate Personnel Technician
53. Election Administrator
54. Deputy Commissioner
55. Superintendent of Buildings
56. Deputy Superintendent
57. Undersheriff
58. Personnel Administrator
59. Chief Deputy
60. Director II
61. Probation Supervisor
62. Superintendent
63. Assistant Superintendent
64. Chief Correctional Officer
65. Business Manager
66. Special Traffic Program Coordinator
67. Chief Deputy Fire Coordinator
68. Deputy Fire Coordinator
69. Director of Handicapped Service
70. Contracts Director
71. Director of Public Health Nursing
72. Director of Environmental Health Services
73. Public Health Administrator
74. Medical Director
75. Assistant Medical Director
76. Director of Children Services
77. Supervisor/Coordinator
78. CSS Coordinator
79. Program Coordinator
80. Director of Records
81. Director of Administration Services
82. Director of Social Services
83. Director III
84. Director of Weights and Measures
85. Executive Deputy Commissioner

86. Fiscal Director
87. Rink Manager
88. Assistant Rink Manager
89. Assistant Administrator
90. County Historian
91. Deputy County Historian
92. Operations Coordinator
93. Grant Administrator
94. Traffic Safety Program Coordinator
95. Director of Engineering
96. County Engineer
97. Assistant Director
98. Assistant Medical Director
99. Director of Nursing
100. Commissioner
101. Deputy Commissioner

*Referred to Law Committee. 2/11/08*

*Referred to Law Committee. 5/9/11*

*Favorable Recommendation – Law Committee. 7/25/11*

*Referred to Personnel Committee. 8/8/11*

*Favorable Recommendation – Personnel Committee. 8/24/11*

*On roll call vote the following voted in favor: Mr. Aylward, Ms. Benedict, Messrs. Beston, Bullock, Carman, Ms. Chapman, Messrs. Clay, Clenahan, Clouse, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Hoblock, Horstmyer, Houghtaling, Infante, Joyce, Mss. Lockart, Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Mendick, Morse, Nichols, Rahm, Reilly, Scavo, Steck, Timmins, Tunny, Ward, Ms. Willingham and Mr. Zeilman – 39.*

*Those opposed: - 0.*

*Local Law was adopted. 12/5/11*