

LOCAL LAW NO. 3-90
CHAUTAUQUA COUNTY

A LOCAL LAW TO ESTABLISH A CODE OF ETHICS FOR CHAUTAUQUA COUNTY

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York as follows:

Section 1. Short Title

This shall be known as the "Chautauqua County Code of Ethics."

Section 2. Legislative Purpose.

The purpose of this Code is to establish minimum standards of ethical conduct for County officers and employees to ensure that County government is free from improper influence. Ethical conduct ultimately depends on the personal integrity of County officers and employees and on the vigilance of their communities. The establishment of the standards and guidelines set forth in this code is a step toward providing the highest caliber of public administration for County government and increased confidence in its officials, while recognizing that public service cannot require a complete divesting of all proprietary interests nor impose overly burdensome disclosure requirements if County government is to attract and hold competent administrators.

By requiring public disclosure of interest that may influence or be perceived to influence the actions of County officials, the code is intended to facilitate consideration of potential problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people.

The disclosure requirements of this Code of Ethics are in addition to any other requirements imposed by law. Additional disclosure to the public is available pursuant to the New York State Freedom of Information Act and Election Law requirements. Copies of all contracts with the County are also available for public inspection at the Office of the Clerk of the County Legislature.

Section 3. Definitions

When used in this Code and unless otherwise expressly stated:

1. "Agency" means any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the County.
2. "Appear" and "appear before" mean communicating in whatever form, whether personally or through another person.
3. "Business dealing" means (a) having or providing any contract, service or work with a municipality; (b) buying, selling, renting, leasing or otherwise acquiring from or dispensing to the County any goods, services or property; or (c) applying for, petitioning, requesting or obtaining any approval, grant loan, license, permit or other privilege from the County.
4. "County officer or employee" means any officer or employee of the County, whether paid or unpaid, including public officials and all other members of any agency of the County, but does not include a judge, justice, officer or employee of the unified court system.

5. "Family member" includes immediate relatives, step-child, or dependents of a County officer or employee.

6. "Person" means an individual, corporation, partnership, unincorporated association, and all other entities.

7. "Public official" means any official who has discretionary authority, either alone or as a member of an agency, but not include a judge, justice, officer, or employee of the unified court system.

Section 4. Conflicts of Interest of County Officers and Employees

1. No County officer or employee shall directly or indirectly do or take any act prescribed below, or agree to do such acts, or attempt or induce another person to do such acts, including:

a. act or appear as attorney, agent, broker, employee, consultant or representative for any third party in connection with any transaction that involves discretionary acts of any County officer or employee or act or appear in any matter in which the County is a party or a complainant except on behalf of the County or himself.

b. ask for or, accept any gift or financial benefit from any person, other than a family member, who the County officer or employee knows is considering or has had any transactions with the County that involves any discretionary act by the County officer or employee. A County officers or employee may not ask for or accept from any person a gift where it reasonably might be inferred that such gift was intended to influence the County officer or employee in any discretionary action.

c. take or refrain from taking any action on any matter before the County in order to obtain a pecuniary or material benefit for: (1) himself or herself; (2) a family member; (3) any partnership or unincorporated association of which the County officer or employee is a member or employee or in which he or she has a proprietary interest; (4) any corporation of which the County officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than five percent of the outstanding stock; (5) any person with whom the County officer or employee or his or her family member has an employment, professional, business or financial relationship; or (6) any person from whom the County officer or employee, or his or her spouse, has received a pecuniary or material benefit having an aggregate value greater than one thousand dollars per year.

d. solicit directly or indirectly any non-elected officer or employee of the County or any entity that is not subject to competitive bidding, to participate in an election campaign, or pay any assessment, subscription, or contribution to a political party, political party organization or election campaign. This paragraph shall not prohibit a general solicitation of a class of persons, other than those expressly prohibited, of which such solicited officer or employee happens to be a member.

e. except where authorized by law, disclose any confidential information acquired in the course official duties or use any such information for personal gain or to advance the financial interest of any other person.

f. after termination of his or her term of office or employment with the County, appear before the County of receive compensation for any services rendered on behalf of any person other than the County in relation to any particular matter upon which he or she took any discretionary act during this or her term of office or employment with the County.

2. No partnership, unincorporated association, corporation or any other entity owned or controlled by a County officer or employee shall appear before any County department agency which employs such public official except on behalf of the County or itself.

3. Nothing in this section shall be construed to prohibit a County officer or employee or any other person from receiving a County service or benefit or using a County facility which is generally available to residents or a class of residents in the County.

4. Nothing in this section shall be construed to prohibit a County officer or employee from performing any ministerial act.

Section 5. Transactional Disclosure and Recusal

1. Whenever a County officer or employee is required or required to take any action on a matter before the County and, to his or her knowledge, either the performance or nonperformance of that action would provide a pecuniary or material benefit to himself or herself or to any related person different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit, the County officer or employee shall not participate in that matter. A County Legislator shall advise the legislature of such interest and request that a County Legislator, also shall file promptly with his or her immediate supervisor, if any, and with the County Clerk, a signed statement disclosing the nature and extent of that interest.

2. For purpose of this section, "related person" means:

- a. a family member;
- b. any corporation of which the County officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than five percent of the outstanding stock;
- c. any person with whom the County officer or employee or his or her family member has an employment, professional, business or financial relationship; and
- d. any person from whom the County officer or employee, or his or her spouse, has received within any twelve month period during the previous twenty-four months, a pecuniary or material benefit having an aggregate value greater than two thousand dollars.

3. Nothing in this section shall be construed to prohibit a County officer or employee from performing any ministerial act or to require a County officer or employee to file a disclosure statement pursuant to paragraph one of this section prior to performing any ministerial act.

Section 6. Annual Disclosure

1. All public officials who are elected or paid shall file with the County Clerk a signed annual disclosure statement; (a) within one hundred twenty days of the effective date of this act; (b) within thirty days of taking office; and (c) no later than April 30 of each year thereafter. Within thirty days of any material change in the information contained in his or her most recently filed statement, the public official shall file a signed amendment to the statement indicating the change. The financial information shall be disclosed in form attached hereto.

2. If a public official who is elected or paid is not able, after reasonable efforts, to obtain some or all of the information required by household member, he or she shall so state, as part of the annual disclosure statement.

Section 7. Maintenance of Disclosure Statements

Transactional disclosure statements filed pursuant to this Code of Ethics and annual disclosure statements filed shall be public records, indexed and maintained on file for at least seven (7) years, in an appropriate manner by the County Clerk. The Clerk shall promptly transmit a copy of all disclosures statements to the ethics board upon request.

Section 8. Lists of Public Officials; Notice of Filing Requirements; Verification of Filing

1. The County Executive shall file with the County Clerk and the Ethics Board a list of all policy making County officials who are subject to these disclosure requirements, and shall notify such officials of the annual disclosure requirements of this Code of Ethics.

2. Before May 15 of each year, the County executive shall verify that every affected public official has filed his or her annual disclosure statement.

3. Failure of the County Executive or the elected officer to comply with this section shall not relieve any public official who is elected or paid from his or her duty to file an annual disclosure statement pursuant to this Code of Ethics.

Section 9. Inducement of Violations

1. Any person, whether or not a County officer or employee, who intentionally induces any County officer or employee to take any action or to refrain from taking any action in violation of any provision of this Code violates his Code.

Section 10. Civil and Administrative Penalties

1. Any County officer or employee who engages in any action that violates any provision of this Code may be warned or reprimanded or suspended or removed from office or employment or be subject to any other sanction authorized by law or collective bargaining agreement, but he appointing authority or person or body authorized by law to impose such sanctions.

2. Any County officer or employee who violates any provisions of this Code may be subject to a civil fine of up to one thousand five hundred dollars for each violation, as may be determined by the Ethics Board. A civil fine may be imposed in addition to any other penalty contained in any other provisions of law or in this Code.

3. Any County officer or employee who violates any provision of this Code 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 Code.

Section 11. County Ethics Board

A. Establishment. The County Legislature hereby established an Ethics Board consisting of seven (7) members. The Ethics Board shall be responsible for ensuring full compliance with this Code of Ethics. All actions of the Board of Ethics shall be by a vote of at least four members.

Members of the Ethics Board shall serve without compensation, but shall be entitled to reimbursement of reasonable expenses for mileage, in accordance with rules established by the County Legislature.

B. Appointment. Members of the Board of Ethics shall be appointed by the County Executive and confirmed by a two-thirds vote of the County Legislature. No Ethics Board members shall hold office in a political party, be employed as a lobbyist, be an immediate relative of a County officer or employee, or have any financial interest in any contracts or other transactions involving the County.

C. Term. The members of the Ethics Board shall serve three-year staggered terms, provided that the first appointments to the Ethics Board shall be as follows: two members for a one-year term, two members for a two-year term, and three members for a three-year term. If a vacancy occurs on the Ethics Board, the new member shall be appointed to fill the unexpired portion of the term. Members of the Ethics Board shall not serve more than two full three-year terms.

Members of the Ethics Board may be removed for cause by the County Executive with the concurrence of two-thirds of the County Legislature. Grounds for removal shall be neglect of duty, misconduct in office, inability to discharge the powers or duties of the office, or violation of ability to discharge the powers or duties of the office, or violation of the Code of Ethics. Prior to removal, the Ethics Board member shall be given written notice of the reasons for removal and an opportunity for reply.

D. Powers and Duties. The Ethics Board shall have the following powers and duties:

- i. Prescribe and promulgate rules and regulations governing its internal organization and procedures consistent with the Code of Ethics.
- ii. Review with public official the disclosure requirements of this Code, and ensure proper filing of all disclosure statements.
- iii. Conduct investigations, hearings, and other examinations relating to the Code of Ethics, with the power to issue subpoenas where necessary.
- iv. Recommend disciplinary action, penalties, or fines in accordance with the Code of Ethics.
- v. Render advisory opinions upon request of any County officer or employee.
- vi. Provide training and education to County officers and employees regarding the requirement of the Code of Ethics.
- vii. Prepare an annual report and recommend changes or improvements to the Code of Ethics.
- viii. Perform such other related duties as requested by the County Executive.

Section 12. Effective Date.

This Code of Ethics shall become effective upon filing with the Secretary of State.

Introduced: 11/15/89

Adopted by Legislature: 12/20/89 – R/C Vote: 15 Yes; 8 No; 2 Absent (No's: Butcher, Larson, Muscato, Piede, Porpiglia, Stanley, Tarnowski, Trusso)

Public Hearing: 1/19/90

Adopted as Local Law 3-90