

LOCAL LAW NO. 5-13
CHAUTAUQUA COUNTY

A LOCAL LAW AMENDING THE CHAUTAUQUA COUNTY CODE OF ETHICS

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

SECTION I. Local Law 3-90 of the County of Chautauqua, entitled "A Local to Establish a Code of Ethics for Chautauqua County," as amended, is hereby further amended by substitution to state as follows:

Section 1. Short Title

This code of ethics 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 interests that may influence or be perceived to influence the actions of County officials, this 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 Law 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" means a spouse, child, step-child, parent, step-parent, sibling, step-sibling, half-sibling, dependent, and household member 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 does 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 such acts, or induce another person to do such acts, including:

- a. act or appear as 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 or herself.
- b. ask for or accept any gift or financial benefit having a value of seventy-five dollars (\$75.00) or more per year 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 officer or employee may not ask for or accept from any person a gift or financial benefit where it might reasonably be inferred that such gift or financial benefit was intended to influence or could reasonably be expected to influence the

County officer or employee in any discretionary action or was intended as a reward for any official action on the part of any County officer or employee.

- c. take or refrain from taking any action on any matter before the County in order to obtain a pecuniary or material benefit for:
 - (i) himself or herself;
 - (ii) a family member;
 - (iii) 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;
 - (iv) 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 (5%) of the outstanding stock;
 - (v) any person with whom the County officer or employee or his or her family member has an employment, professional, business, or financial relationship; or
 - (vi) 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 (\$1,000.00) 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 of official duties or use any such information for personal gain or to advance the financial interests of any other person.
- f. after termination of his or her term of office or employment with the County, appear before the County or 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 his or her term of office or employment with the County.
- g. no paid County officer or employee shall for two years after the termination of employment appear before his or her former County department or receive compensation for any services (except on behalf of the County or himself or herself)

in relation to any matter of the type over which he or she had discretionary authority during his or her term of office or employment with the County, whether or not he or she exercised such authority.

This subsection shall not apply to any elected official, member, or employee of a federal, state, or local government or one of their agencies or instrumentalities, or to any action by a licensed attorney that is permitted by the New York State Rules of Professional Conduct.

- h. act or appear as an attorney in: (1) any litigation in which the County is a party or complainant that involves torts, civil rights, contracts, or eminent domain, except on behalf of the County or himself of herself; or (2) any other matter in which the County is a party or complainant that would constitute a violation of the New York State Rules of Professional Conduct.

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 or agency which employs such public official except on behalf of the County or itself.

3. Nothing in this Local Law 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 to a class of residents in the County.

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

5. Nothing in this Local Law shall be construed to prohibit an unpaid member of a County agency from acting or appearing for a third party regarding a matter unrelated to the business of their County agency, nor prohibit a County officer or employee who is an elected public official of another governmental entity from acting or appearing in their official capacity on behalf of such other governmental entity.

6. Nothing in this Local Law shall be construed to prohibit an unpaid member of an advisory County board, bureau, council, committee, or commission from acting or appearing for a third party regarding a contract with the County when such member has no power or duty to:

- a. negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- b. audit bills or claims under the contract; or
- c. appoint an officer or employee who has any of the powers or duties set forth above.

7. Nothing in this Local Law shall be construed to prohibit a County officer or employee from serving in an unpaid capacity as an officer or director of a non-profit or governmental entity, when such service is in furtherance of the official duties of the County officer or employee.

Section 5. Use of County Resources

The use of County resources by County officers and employees shall be in compliance with County policies and procedures.

Section 6. Procurement Integrity

1. While procuring property or services of more than fifty thousand dollars (\$50,000.00) in value, no County officer or employee shall solicit, discuss, or accept, directly or indirectly, any promise of future employment or business opportunity from any contractor competing for such procurement.

2. While competing for award of a County procurement of property or services of more than fifty thousand dollars (\$50,000.00) in value, no contractor shall discuss or make, directly or indirectly, any offer or promise of future employment or business opportunity to any official of the County involved in such procurement.

Section 7. Transactional Disclosure and Recusal

1. Whenever a County officer or employee is requested 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 permission to abstain from voting. The County officer or employee, other than 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 (5%) 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 (12) month period during the previous twenty-four (24) months, a pecuniary or material benefit having an aggregate value greater than two thousand dollars (\$2,000).

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 8. Annual Disclosure

1. All public officials who are elected or paid shall file with the Board of Ethics, by depositing with the Office of the County Executive, a signed annual disclosure statement utilizing the disclosure statement form filed with the Clerk of the County Legislature on September 10, 2013:

- a. within thirty (30) days of taking office; and
- b. no later than April 30 of each year thereafter.

Within thirty (30) 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 Board of Ethics shall have free and unlimited access to all forms at all times.

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 paragraph two of this section which relates to his or her spouse or household member, he or she shall so state, as part of the annual disclosure statement.

3. The Board of Ethics shall review all disclosure statements. Upon being satisfied as to the content and completeness of a statement, the Ethics Board shall return the statement to the Office of the County Executive, which will in turn file the statement with the County Clerk.

Section 9 . 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 County Clerk shall promptly transmit a copy of all disclosures statements to the Ethics Board upon request.

Section 10 . Lists of Public Officials; Notice of Filing Requirements; Verification of Filing; Training and Distribution of Code

1. The following public officials are subject to disclosure requirements:

Administrative Assistant
Administrator, Chautauqua County Home
Assistant Construction & Maintenance Supervisor
Assistant County Attorney

Assistant Deputy Director of Public Facilities (Buildings & Grounds)
Assistant District Attorney
Assistant Public Defender
Assistant Social Services Attorney
Assistant to Commissioner of Social Services
Associate Public Health Engineer
Board of Health Members
Budget Director
Chief Information Officer
Chief Information Officer and Deputy County Executive
Child Psychiatrist
Clerk of the Legislature
Commissioner of Elections
Commissioner of Health Services
Commissioner of Social Services
Construction & Maintenance Supervisor
Coroner
County Attorney
County Clerk
County Executive
County Fire Coordinator
County Historian
Deputy Clerk of the Legislature
Deputy Commissioner of Social Services
Deputy County Clerk
Deputy County Executive
Deputy Director of Central Services (Office Services)
Deputy Director of Central Services (Purchasing)
Deputy Director of Finance (Treasury)
Deputy Director of Planning
Deputy Director of Public Facilities (Engineering)
Deputy Director of Public Facilities (Environment, Airports, Parks & Buildings & Grounds)
Deputy Director of Public Facilities (Transportation)
Deputy Director of the Youth Bureau
Deputy Probation Director II
Deputy Public Health Director
Deputy Sheriff Captain
Deputy Sheriff/Jail Supervisor
Director of Administrative Services
Director of Certification
Director of Community Mental Hygiene Services
Director of Economic Development
Director of Emergency Management and Civil Defense
Director of Emergency Services
Director of Environmental Health Services

Director of Finance
Director of Health & Human Services
Director of Human Resources
Director of Information Services
Director of Intermunicipal Services
Director of North Chautauqua Lake Sewer District
Director of Nursing Services
Director of Office for the Aging
Director of Office of Management and Budget
Director of Patient Services
Director of Planning
Director of Portland-Pomfret-Dunkirk Sewer District
Director of Public Facilities
Director of Real Property Tax Services III
Director of South & Center Chautauqua Lake Sewer Districts
Director of Veterans Service Agency
Director, Chautauqua County Youth Bureau
District Attorney
Engineer III
Executive Assistant
Financial Analyst to Legislature
Fire Coordinator
First Assistant County Attorney
First Assistant District Attorney
First Assistant Public Defender
First Assistant Social Services Attorney
First Deputy Director of Finance
Food Service Director
Health Administrator
Insurance Administrator
Legal Counsel to the Legislature
Legislator
Manager of Airports
Members of the Chautauqua County Soil and Water Conservation District
Mental Hygiene Program Coordinator
Personnel Technician
Physician
Planning Board Members
Probation Director II
Probation Supervisor
Public Defender
Public Health Director
Sanitation Supervisor
Sealer of Weights and Measures
Second Assistant County Attorney
Second Assistant District Attorney

Second Assistant Public Defender
Second Assistant Social Services Attorney
Senior Personnel Technician
Senior Personnel Technician/Deputy Director of Human Resources
Senior Project Coordinator (Transportation)
Sheriff
Social Services Attorney
Special Assistant for Medicaid
Special Projects Coordinator
Supervising Clinical Psychologist
Undersheriff
Warden

All other officers or employees who are authorized to approve vouchers, purchase orders, contracts and payroll such as purchasing clerks and purchasing agents.

2. Before May 15th 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.

4. All officials and employees subject to the requirements of the Chautauqua County Code of Ethics are required to undergo annual training, to be implemented by the County Department of Human Resources at the time of hire for new employees, and to be held between January 1 and March 30 of each year for existing employees, to inform and educate them as to the requirements of this Code. All those subject to the requirements of this Code are also to receive an updated and current version of this Code, or other appropriate training material, immediately prior to or during their annual training.

Section 11 . Inducement of Violations

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 this Code.

Section 12. 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, by the 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 ten thousand dollars (\$10,000) 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 13. County Ethics Board

1. Establishment. The County Legislature hereby establishes an Ethics Board consisting of five (5) members. The Ethics Board shall be responsible for ensuring full compliance with the Code of Ethics. All actions of the Board of Ethics shall be by a vote of at least three (3) members. Members of the Ethics Board shall serve without compensation.

2. 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.

3. Term. The members of the Ethics Board shall serve three-year staggered terms, with three terms expiring in odd years and two terms expiring in even years. 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 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 the Code of Ethics. Prior to removal, the Ethics Board member shall be given written notice of the reasons for removal and an opportunity to reply.

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

- a. Prescribe and promulgate rules and regulations governing its internal organization and procedures consistent with the Code of Ethics;
- b. Review with public officials the disclosure requirements of this Code, and ensure proper filing of all disclosure statements;
- c. Conduct investigations, hearings, and other examinations relating to the Code of Ethics, with the power to issue subpoenas where necessary;
- d. Recommend and impose sanctions, penalties, or fines in accordance with the Code of Ethics;
- e. Render advisory opinions upon request of any County officer or employee;

- f. Recommend content for training and education of County officers and employees regarding the requirements of the Code of Ethics;
- g. Prepare an annual report and recommend changes or improvements to the Code of Ethics;
- h. Perform such other related duties as requested by the County Executive;
- i. Meet at least four times a year, and publish notice of meetings and the names of Ethics Board members in the County's official newspapers. In addition, notice of meetings shall be furnished to radio stations located in the County; and
- j. Arrange for a separate post office box for the Board of Ethics, accessible only by officers of the Ethics Board.

Section 14. Separability.

If any clause, sentence, paragraph, or section of this Code of Ethics is adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, and the unaffected portions of this Code of Ethics shall remain in full force and effect.

SECTION II. This Local Law shall become effective upon filing with the Secretary of State.

Mailed: 10/13/13

Adopted by Legislature: 9/25/13

Public Hearing by Executive: 10/9/13

Adopted as LL 5-13