

LAIID ON DESKS 9/8/14
Revised and Re-Laid on Desk by mail and placed in Legislators boxes 9/26/14
Government Services and Administration

RESOLUTION NO. 2014254

RE: LOCAL LAW NO. _____ OF 2014, A LOCAL LAW
ADOPTING THE DUTCHESS COUNTY CODE OF ETHICS AND
REPEALING DUTCHESS COUNTY LOCAL LAW NO. 7 OF 2000,
AS AMENDED BY LOCAL LAW NO. 2 OF 2001, LOCAL LAW NO. 7
OF 2001 AND LOCAL LAW NO. 5 OF 2004

Legislators KELSEY, JOHNSON, SAGLIANO, and WEISS offer the following
and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No.
_____ of 2014 which has been submitted this day for consideration by said Legislature.

CA-164-14
CRC/ca/G-0770-B
8/25/14
Fiscal Impact: None

STATE OF NEW YORK
COUNTY OF DUTCHESS

ss:

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 14th day of October 2014, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 14th day of October 2014.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

LOCAL LAW NO. ____ of 2014

RE: LOCAL LAW NO. _____ OF 2014, A LOCAL LAW
ADOPTING THE DUTCHESS COUNTY CODE OF ETHICS AND
REPEALING DUTCHESS COUNTY LOCAL LAW NO. 7 OF 2000,
AS AMENDED BY LOCAL LAW NO. 2 OF 2001, LOCAL LAW NO. 7
OF 2001 AND LOCAL LAW NO. 5 OF 2004

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

DUTCHESS COUNTY CODE OF ETHICS

- SECTION 1. STATEMENT OF PURPOSE
- SECTION 2. PRIOR ETHICS LOCAL LAW REPEALED
- SECTION 3. CONTINUATION OF THE BOARD OF ETHICS AND AUTHORITY THEREOF
- SECTION 4. DEFINITIONS
- SECTION 5. STANDARDS OF CONDUCT
- SECTION 6. MATTERS AGAINST THE COUNTY
- SECTION 7. DISTRIBUTION OF CODE OF ETHICS
- SECTION 8. OBLIGATION TO FILE FINANCIAL DISCLOSURE STATEMENT; MAINTENANCE OF DISCLOSURE STATEMENT
- SECTION 9. FINANCIAL DISCLOSURE STATEMENT
- SECTION 10. FINANCIAL DISCLOSURE STATEMENT; FILING; VARIANCES AND EXTENSIONS
- SECTION 11. PENALTIES
- SECTION 12. DUTCHESS COUNTY BOARD OF ETHICS: COMPOSITION
- SECTION 13. DUTCHESS COUNTY BOARD OF ETHICS: POWERS, DUTIES, AND FUNCTIONS
- SECTION 14. DUTCHESS COUNTY BOARD OF ETHICS: COMPLAINTS, HEARINGS AND ASSESSMENT OF PENALTIES
- SECTION 15. REPEAL OF LOCAL LAW NO. 3 OF 1971 AND LOCAL LAW NO. 7 OF 1990
- SECTION 16. AUTHORITY
- SECTION 17. SEVERABILITY
- SECTION 18. EFFECTIVE DATE

SECTION 1. STATEMENT OF PURPOSE.

This Code of Ethics is enacted pursuant to Article 18 of General Municipal Law. It is the purpose of this Code to establish standards of ethical conduct for officers, employees, and certain appointed officials of the County of Dutchess, to afford them clear guidance as to these standards, and to ensure that county government is free from improper influence so as to assure public confidence and trust. This Code shall be in addition to all other legal restrictions, standards, and provisions pertaining to the conduct of County officers and employees and officials. The County Legislature shall annually review the Dutchess County Code of Ethics at its first regular meeting of the year.

Pursuant to NY General Municipal Law Section 806(1)(a) the County of Dutchess adopts a code of ethics setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them.

By adopting a local law, ordinance or resolution as authorized by NY General Municipal Law Section 811(1) the County of Dutchess elects, pursuant to NY General Municipal Law Section 812(3), to remove itself from the ambit of NY General Municipal Law Section 812(5), which mandates a NY State prescribed financial disclosure statement form.

The County Legislature has determined that it is necessary and advisable to repeal Local Law No. 7 of 2000, as amended by Local Law No. 2 of 2001, Local Law No. 7 of 2001, and Local Law No. 5 of 2004 to consolidate in one Local Law all previous amendments and to:

- 1) add a definition of "complaint";
- 2) mandate annual Code of Ethics training;
- 3) provide a process for updating the list of titles and positions of local officers and employees required to file an annual financial disclosure statement;
- 4) correct the financial disclosure statement so that it does not give the impression that a Notary is required when an affirmation under penalty of perjury is sufficient;
- 5) require that County employees leaving County service complete a financial disclosure statement for the prior calendar year at the Exit Interview;
- 6) authorize the Dutchess County Board of Ethics to evaluate the contents of financial disclosure statement forms;
- 7) require that all hearings alleging a violation of the Dutchess County Code of Ethics remain confidential until a determination that there has indeed been a violation has been made;
- 8) ~~authorize an Ethics Board Member to initiate a complaint; and~~
- 9) expand the enforcement remedies of the Code of Ethics to authorize the Dutchess County Board of Ethics to issue "cease and desist" orders upon the Board's determination that a violation of this Code has occurred.

SECTION 2. PRIOR ETHICS LOCAL LAW REPEALED.

Local Law No. 7 of 2000, as amended by Local Law No. 2 of 2001, Local Law No. 7 of 2001, and Local Law No. 5 of 2004 of the County of Dutchess, and known as the Dutchess County Code of Ethics is repealed upon the effective date of this Local Law; provided, however, that nothing, including this Section shall prohibit the enforcement of said Local Law No. 7 of 2000, as amended, of the County of Dutchess, for actions or inactions done or not done as the case may be, by those subject to such Local Law No. 7 of 2000, as amended, of the County of Dutchess, prior to the effective date of this Local Law. All fines, penalties, criminal, and civil liability as the case may be shall remain in full force and effect and available for enforcement under such repealed Local Law No. 7 of 2000, as amended, of the County of Dutchess, for any applicable actions or inaction of those subject to such law as if such law remained in full force and effect for actions taken or inaction prior to the effective date of this Local Law.

SECTION 3. CONTINUATION OF THE BOARD OF ETHICS AND AUTHORITY THEROF.

The Dutchess County Board of Ethics provided for in Local Law No. 7 of 2000, as amended, of the County of Dutchess, is hereby continued and the terms of the Members of such Board of Ethics shall continue uninterrupted until their expiration as made under Local Law No. 7 of 2000, as amended, of the County of Dutchess.

SECTION 4. DEFINITIONS.

Unless the context clearly provides otherwise, the terms set forth below shall have the following meanings:

- (a) "Appropriate Body" means the Dutchess County Board of Ethics, c/o Commissioner of Finance, 22 Market Street, Poughkeepsie, New York, 12601.
- (b) "Child or Children" means any unemancipated son, daughter, stepson, or stepdaughter.
- (c) "Complaint" means a signed written communication from any source whatsoever containing factual allegations of misconduct of a Dutchess County employee or officer which, if proven, would constitute a violation of the Dutchess County Code of Ethics, as outlined in Section 5, Standards of Conduct. A complaint need not be addressed to the Dutchess County Board of Ethics so long as the substance of the allegations involves purported unethical conduct of a Dutchess County employee or officer as outlined in Section 5.
- (d) "County" means the government of the County of Dutchess and Dutchess Community College.
- (e) "Hearsay Evidence" is evidence of a statement which was made by someone other than by a witness while testifying at a hearing and which is offered to prove the truthfulness of the matter stated.
- (f) "Interest" means a direct or indirect pecuniary or material benefit accruing to an officer or employee, or his or her relative whether as a result of a contract with the County or otherwise. For the purpose of this local law, a County officer or employee shall be deemed to have an interest in the contract of:
 - (i) A relative except as to a contract of employment with the County;
 - (ii) A firm, partnership or association of which such officer or employee is a member or employee;
 - (iii) A corporation of which such officer or employee is an officer, director or employee;
 - (iv) A corporation of which more than five percent of the outstanding stock is owned by any such officer, employee, or his or her relative.
- (g) "Legislation" means a matter which appears on the agenda of the County Legislature or on a committee thereof, on which any official action will be taken and shall include proposed or adopted acts, local laws, ordinances or resolutions.
- (h) "Officer" or "Employee" means an elected or appointed officer or employee of the County of Dutchess, whether paid or unpaid.
- (i) "Relative" means a child, step-child, parent, step-parent, brother, sister, step-brother, step-sister, or legal guardian of any of said persons of an officer or employee or of the spouse of the officer or employee.
- (j) "Spouse" means the husband or wife of an officer or employee unless living separate and apart pursuant to: (i) a judicial order, decree or judgment of separation, or (ii) a legally binding written agreement of separation in accordance with the Domestic Relations Law.
- (k) "Unemancipated Child" means a child who is under the age of eighteen, unmarried and living in the household of an officer or employee.

SECTION 5. STANDARDS OF CONDUCT.

Every officer or employee of the County shall be subject to and abide by the following standards of conduct:

- (a) Gifts. No officer or employee shall directly or indirectly solicit any money or receive any money, whether in the form of cash, check, loan, credit, or any other

form in any amount, or solicit any gifts, or accept or receive any individual annual gift, having a value of seventy-five dollars (\$75) or more, whether in the form of services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could be reasonably inferred that the money or gift was intended to influence, or could reasonably be expected to influence, him or her in the performance of official duties or was intended as a reward for any official action.

- (b) Confidential Information. No officer or employee shall disclose confidential information acquired in the course of official duties or use such information to further a personal interest.
- (c) Representation Before One's Own Agency. No officer or employee shall receive or enter into any agreement, express or implied, for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of which he or she is an officer, member or employee of any agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer, or employee.
- (d) Representation Before Any Agency For a Contingent Fee. No officer or employee shall receive or enter into any agreement, express or implied for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of the County, whereby his or her compensation is to be dependent or contingent on any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at anytime of fees based on the reasonable value of the services rendered.
- (e) Disclosure of Interest in Legislation. To the extent known, any officer or employee of the County who participates in the discussion or gives an official opinion to the County Legislature on any legislation before it shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest they may have in such legislation.
- (f) Disclosure of Interests in Contracts. To the extent known, any officer or employee of the County who has, will have, or subsequently acquires any interest in any contract with the County shall publicly disclose the nature and extent of such interest in writing to the Board of Ethics and County Legislature as well as to his or her immediate supervisor as soon as he or she has knowledge of such actual or prospective interest.
- (g) Investments in Conflict with Official Duties. No officer or employee shall invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his or her official duties.
- (h) Private Employment. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.

- (i) Future Employment. No officer or employee shall, within a period of one year after termination of service or employment, appear before any agency of the County, except on his or her own behalf. No officer or employee shall, after termination of service or employment, appear before any agency of the County in relation to any matter, case, proceeding, application or transaction with respect to which such person was directly concerned or in which he or she personally participated in during his or her service or employment.
- (j) Conflicts of Interest Prohibited. No county officer or employee shall have an interest in any contract between the county and a corporation or partnership of which he or she is an officer or employee when such County officer or employee, has the power to (a) negotiate, prepare, authorize, or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract (c) appoint an officer or employee who has any of the powers or duties set forth above, and, no chief fiscal officer, treasurer, or their deputy or employee shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the county of which he or she is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any county officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.
- (k) Certain interests prohibited. No officer or employee of Dutchess County who has an interest in any real property, either individually or as an officer or employee of a corporation or partnership, shall participate in the acquisition or plan for acquisition of said property or any property adjacent to said property by Dutchess County. The term participation shall include the promotion of the site as well as the negotiation of the terms of acquisition.
- (l) Nepotism. No relative of any person employed in a department of the County of Dutchess shall be entitled to hold a position of full-time or part-time employment in the same department of the County as their relative if the position applied for is in the direct line of supervision in the subject department. Notwithstanding the definition of relative of Section 2(g) for purposes of this subsection "Relative" shall mean a spouse, child, step-child, parent, step-parent, brother, brother-in-law, sister, sister-in-law, step-brother, step-sister, father-in-law, mother-in-law, or legal guardian of any of said persons. With respect to prospective employees who have relatives as defined herein in other County departments, the hiring official shall exercise sound discretion in employing such individual in order to avoid the appearance of impropriety which relationship shall be fully disclosed to the Board of Ethics.

SECTION 6. MATTERS AGAINST THE COUNTY.

Nothing herein shall be deemed to bar or prevent the appearance of a present or former officer or employee before any agency on his or her own behalf, or on behalf of a relative, to express an opinion or comment on a matter before that agency, nor prevent the appearance or timely filing of any claim, account, demand or suit against the County or any agency thereof where the matter arises out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

SECTION 7. DISTRIBUTION OF CODE OF ETHICS.

Within thirty (30) days of the effective date of this local law, the County Attorney shall cause a copy of this Code of Ethics to be distributed to every officer and employee required to file a Financial Disclosure Statement and shall further cause a copy of this local law to be posted in all County owned or leased buildings. Thereafter, each new officer and employee shall be furnished a copy of this local law within sixty (60) days of being elected, appointed, or hired by the County. Each officer and employee required to file a Financial Disclosure Statement shall complete Code of Ethics training provided by the County Attorney during such officer or employee's initial employee orientation, and annually thereafter, or sign a sworn statement that such officer or employee has received and read the Dutchess County Code of Ethics. Such sworn statement shall be filed with the County Attorney's office by the deadline for filing Financial Disclosure Statements (i.e., May 15). Failure to distribute, post, receive or read a copy of this local law, attend annual training, or to submit a sworn statement regarding receipt and reading of the Code of Ethics shall have no effect on the duty of compliance or the enforcement of the provisions of this local law.

SECTION 8. OBLIGATION TO FILE FINANCIAL DISCLOSURE STATEMENT;
MAINTENANCE OF DISCLOSURE STATEMENT.

(a) The Dutchess County Commissioner of Human Resources shall, prior to February 1st of each calendar year in which changes to affected positions become effective, submit to the Dutchess County Legislature for approval by resolution, a list specifying by name of office or by title or classification, those officers, employees, and local elected officials of the executive and legislative branches of county government, but not judges or justices of the Unified Court System, who shall be required to complete and file an annual financial disclosure statement.

Such list shall contain the heads of all county created agencies, departments, divisions, councils, boards, commissions or bureaus and their deputies and assistants, and the officers and employees of such agencies, departments, divisions, boards, bureaus, commissions or councils created by the county who hold policy making positions as determined by the appointing authority as appointing authority is defined by New York State Civil Service Law Section 2(9).

Such officers and employees shall be responsible to complete and file a financial disclosure statement in substantially the form set forth herein and in accordance with the requirements of this local law. On or before March 15th of each year, the County Attorney shall cause to be distributed to those persons holding the positions set forth on such list said financial disclosure statement.

(b) Financial Disclosure Statements filed pursuant to this Code of Ethics shall be sealed, indexed, and maintained on file for five (5) years in an appropriate manner, by the Board of Ethics. Such Disclosure Statements shall be available for public inspection in accordance with the New York State Freedom of Information Law. Such Disclosure Statements shall be destroyed upon the expiration of this five (5) year period.

SECTION 9. FINANCIAL DISCLOSURE STATEMENT.

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FOR CALENDAR YEAR _____

The Code of Ethics of Dutchess County requires certain elected or appointed officials and employees to file this statement prior to May 15 of the following year. Please answer all questions completely. Indicate not applicable (N/A) where appropriate. Attach additional pages if necessary. The filing of this statement does not affect other reporting requirements.

1. Reporting Individual

Name: _____

Title of County Position Held: _____

Department or Agency: _____

Current Office Address: _____

Current Office Telephone Number(including extension): _____

If you are currently an officer or employee required to file a Financial Disclosure Statement and a candidate for an elective office subject to disclosure, indicate the title of the office: _____

2. To the best of your knowledge and belief, do you, your spouse, your children or dependent(s) or any relatives as defined in Section 4(h) have *any* of the following relationships with Dutchess County? (If yes, check the appropriate boxes)

Do business with Dutchess County

Receive any benefits, payment or gift in excess of that allowed in Section 5(a) from any person, firm, company or organization either doing business with Dutchess County or licensed or regulated by Dutchess County

Own five (5) per cent or more of stock in a firm doing business with Dutchess County

Check all boxes above that are applicable

If you checked a box in question 2 above, go on to page 2. Do not complete the certification below.

If you did not check a box above, complete the certification below and file the Statement with the Board of Ethics, c/o Commissioner of Finance, 22 Market Street, Poughkeepsie, NY 12601

I hereby affirm under penalty of perjury that neither I nor any of the members of my Immediate Family have any of the Relationships described in Question 2 and that the information on this statement set forth above is true, accurate, and complete to the best of my ability.

Dated: _____

(signature)

6. For every individual identified in Question 3, including yourself, identify any real property which each owns either in or contiguous to Dutchess County. The identification should include at a minimum the street address, municipality, property size, property use, and acquisition date. Include all property, whether the interest is vested or contingent, where fifty percent (50%) or more of the equitable interest in the property is held by the reporting person or relatives.

Exclude any primary personal residence not exceeding five (5) acres.

With respect to items reported concerning "relatives", as defined, a demonstration of good faith effort to the Ethics Board shall be evidence of compliance.

If you completed Questions 3-6, complete the Certification below prior to filing with the Board of Ethics.

The reporting of information on this statement is required by law. Improper use of the information contained in this statement by any person or entity in violation of privacy or other rights is separately punishable in accordance with law. No inference of unethical or illegal conduct or behavior shall be drawn merely from the lawful compliance with disclosure requirements.

I hereby affirm under penalty of perjury that the information on this statement set forth above is true, accurate and complete to the best of my ability.

Dated: _____

(signature)

SECTION 10. FINANCIAL DISCLOSURE STATEMENT; FILING;
VARIANCES; EXTENSIONS

Annual Statement of Financial Disclosure; Filing; Variances and Extensions.

- (a) Any person required to file an Annual Statement of Financial Disclosure pursuant to this local law shall file such completed statement on or before May 15th of each year for the preceding calendar year directly with the appropriate body. Any person required to file such statement who leaves County employment shall complete such statement for the preceding calendar year so that it may be collected by Human Resources at the Exit Interview.
- (b) Any person required to file such statement who is employed after May 15th of any year shall file such statement within thirty (30) days of such employment.
- (c) A person who is subject to filing requirements from more than one county may satisfy the requirement of this Section by filing a financial disclosure form with the appropriate body of the other county and filing a copy of that form with this county within the time required, together with a notification to this county of the name of the other county and the name and address of the appropriate body for that county.
- (d) Any person who is subject to the reporting requirements of this local law and who timely files with the Internal Revenue Service an application for an extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to submit such financial disclosure statement on or before the fifteenth (15th) day after the expiration of the period of such extension of time within which to file such individual income tax return.
- (e) Any person who is required to file an annual financial disclosure statement and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship in accordance with the rules and regulations on the subject adopted by the appropriate body, shall file such statement within the additional period of time granted.
- (f) Each officer or employee required to file a financial disclosure statement shall be provided with a time-dated receipt of such filing.
- (g) Any person who is required to file an annual financial disclosure statement and who fails to file on or before May 15 of any year, shall be notified by certified mail by the appropriate body, and shall file such statement within fifteen (15) days of such notification subject to the penalty provided for in Section 11(a) below.
- (h) Any person required to file a financial disclosure statement may request an exemption from any requirement to report one or more items of information which pertains to such person's spouse or relatives which item or items may be exempted upon a finding by a majority of the Board of Ethics that the reporting individual's spouse or relatives objects to providing the information necessary to make such

disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting individual's official duties.

SECTION 11. PENALTIES.

- (a) Any officer or employee who is required to complete and file an annual financial disclosure statement, and has failed to file within fifteen (15) additional days after having been given at least one reminder, in writing, may be assessed a civil penalty not to exceed \$100 for the first such failure and not to exceed \$150 for a second such failure and not to exceed \$250 for any failure to file thereafter. In assessing any penalty, the Board of Ethics shall consider any mitigating circumstances offered by the offending party. In addition to these penalties, a persistent violator shall be subject to a fine not to exceed \$500. A persistent violator is one who fails to file the annual statement of financial disclosure for three years.
- (b) Any officer or employee who knowingly and willfully, with intent to deceive, makes a false statement, or gives information on such statement, which such individual knows to be false, shall be assessed a civil penalty in an amount not to exceed \$2,500.
- (c) Any officer or employee who knowingly and willfully violates any other provisions of the county ethics laws, or of Article 18 of the General Municipal Law, or any other law establishing rules of conduct for public officers and employees, may be assessed a civil penalty not to exceed \$2,500 and may be subject to disciplinary action by the officer or employee's department head and/or the Commissioner of Human Resources and/or other proper authority.

SECTION 12. DUTCHESS COUNTY BOARD OF ETHICS; COMPOSITION.

- (a) The Dutchess County Board of Ethics, heretofore created by Local Law No. 3 of 1971 is terminated effective upon adoption of this local law.
- (b) Pursuant to Article 18 of the New York General Municipal Law, there is hereby established the Dutchess County Board of Ethics.
- (c) The Board of Ethics shall consist of five members appointed by the County Executive subject to confirmation by the County Legislature. No more than three shall be of the same enrolled party affiliation. No more than two of said members shall be officers or employees of Dutchess County or officers or employees of municipalities wholly or partially located in such County and at least one of whom shall be an elected or appointed officer or employee of the county or a municipality located within such county. Of the five members appointed by the County Executive, one shall serve for a term of one year, two shall serve for a term of two years, and two shall serve for a term of three years. Thereafter, all shall serve for a term of three years. Members whose terms expire may be reappointed for additional three-year terms subject to confirmation by the County Legislature. The Board of Ethics shall appoint a Chairman from among its members for a term of one year. Three members of the Board shall constitute a quorum. The County Attorney or one of his or her assistants shall serve as legal

counsel to the Board. The Board shall meet, at a minimum, at least once a calendar year, and at any other time or times deemed necessary by the Chairman of the Board or upon the request of a majority of its members.

- (d) The County Legislature may appropriate moneys for the maintenance and personal services connected with the Board of Ethics.
- (e) The members of the Board of Ethics shall receive no compensation for their services on such Board.

SECTION 13. BOARD OF ETHICS: POWERS, DUTIES, FUNCTIONS.

- (a) The Board of Ethics shall have the powers, duties and functions provided by Article 18 of the General Municipal Law.
- (b) The Board of Ethics shall be the repository for completed Financial Disclosure Statements and such other written instruments affidavits, and disclosures as required by law. The Dutchess County Commissioner of Finance shall inspect all Financial Disclosure Statements to ascertain whether a person required to file a statement has failed to do so and inform the Dutchess County Board of Ethics in writing of the results of such inspection. The Board of Ethics shall have the authority to request further information from any person required to file an Annual Statement of Financial Disclosure pursuant to this local law who has checked off a box in Item 2 of the Financial Disclosure Statement, and to take such further action as the Board deems warranted as allowed by this code.
- (c) The Board of Ethics shall render advisory opinions in writing to officers and employees of Dutchess County, upon written request of the officer or employee with regard to his or her own affairs. Such opinions shall be rendered, if practicable, within thirty (30) days of the written request. The thirty (30) day time period may be extended an additional thirty days at the Board's discretion. Such advisory opinions shall be with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant thereto, except that the County Board of Ethics shall not act with respect to the officers and employees of any municipality located within Dutchess County or agency thereto, where such municipality has established its own Board of Ethics, except that the local Board may at its option refer matters to the County Board of Ethics. Such opinions shall be rendered, if practicable, within thirty (30) days of the written request. The thirty (30) day time period may be extended an additional thirty days at the Board's discretion.
- (d) The County Executive, members of the County Legislature, Comptroller, Sheriff, or County Clerk, may request an advisory opinion with regard to the affairs of any county officer or employee in writing. Such opinions shall be rendered, if practicable, within thirty (30) days of the written request. The thirty (30) day time period may be extended an additional thirty days at the Board's discretion. Thereafter, if deemed necessary by the Board, the time period may be extended by an additional ninety (90) days upon notification to the County Executive and Clerk of the County Legislature that a particular matter is under investigation and an additional extension is required. In any event, the Board shall render its

opinion no later than one hundred fifty (150) days from the date of receipt of the written request.

- (e) Unless specifically requested by the individual charged with a violation, or the party requesting an advisory opinion, said opinions shall not be made public or disclosed unless required by the Freedom of Information Law, pursuant to Judicial subpoena or required on a disciplinary proceeding involving an officer or employee.
- (f) The Board of Ethics, by majority vote of the whole may request the County Legislature to authorize them to subpoena an individual, whether or not a county officer or employee, or any document or thing deemed necessary to the Board in resolving any pending proceeding or investigation.
- (g) The Board of Ethics may make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon the request of the County Legislature or the governing body of any municipality in the County.

SECTION 14. BOARD OF ETHICS: COMPLAINTS, HEARINGS, AND ASSESSMENT OF PENALTIES.

- (a) All complaints alleging a violation of the Dutchess County Code of Ethics must be in writing and include the signed name and address of the complainant.
- (b) The Board may accept from the general public or any of its own members or any County officer or employee a complaint or allegation of conflict of interest of any officer or employee of Dutchess County. The Board may also accept from the general public or any of its own members or any County officer or employee a complaint or allegation of a violation of this Local Law by a County officer or employee.
- (c) Complaints to remain Confidential unless Violation.
All such complaints or allegations are to be kept in the confidential records of the Board by the Board unless made public by the Board after a determination of a violation has been made.
- (d) Confidentiality of Hearings/Meetings relating to possible violation of Law.
No meeting or proceeding or hearing of the Board of Ethics concerning a possible violation of this Local Law by a County officer or employee shall be open to the public, except upon the written 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.
- (e) The Board's findings and conclusions and Order shall be made public if it is determined that the person who was the subject of the hearing knowingly violated this Local Law or that it is unreasonable that such person did not know of such violation.
- (f) Upon receipt of a complaint, the Board of Ethics shall make a determination as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made that a violation of the Code of Ethics is not alleged by the

complainant, the Board shall notify the complainant of its determination in writing.

- (g) If a determination is made that a violation of the Code of Ethics is alleged by the complainant, the Board shall notify in writing the person against whom the complaint is made of the nature of the complaint and the provision of the Code of Ethics allegedly violated.
- (h) The officer or employee charged with a violation shall have fifteen (15) days from receipt of notice of alleged violation to respond in writing to the Board's notice of alleged violation. The fifteen (15) day time period may be extended an additional fifteen (15) days at the Board's discretion. The response shall either admit the violation or state facts supporting a denial of the charge.
- (i) If the charge is denied, the Board shall either dismiss the charge if the facts presented so warrant or conduct a hearing.
- (j) A fact hearing shall consist of sworn testimony, affidavits, or such document evidence as the Board allows. The person charged shall be allowed to be represented by legal counsel and allowed to present evidence and to confront evidence including the initial written complaint, presented against him or her. Strict rules of evidence under the laws of New York State shall not apply to the hearing. The Board may direct that the hearing be recorded and transcribed.
- (k) After the hearing is conducted, the Board shall issue its decision in writing, indicating the reason therefor. Any determination by the Board that a violation of this Code of Ethics has occurred shall be based on a majority vote of the whole Board, specifically; at least three out of five votes in favor of such determination shall be required. Such decision shall be rendered, if practicable, within the time limits set forth for opinions as contained in Section 13(d) above. No determination may be based solely on hearsay evidence.
- (l) Upon the Board's determination that a violation of the Code of Ethics has occurred, and pursuant to Section 11 of this Code of Ethics, the Board of Ethics may assess a penalty as allowed by this code or issue a "cease and desist" order or both.
- (m)
 - 1) Any determination resulting in a fine, cease and desist order, or disciplinary action by the Board of Ethics shall be subject to review by a special proceeding in New York Supreme Court. Such a proceeding must be commenced within thirty (30) days of receipt of notice of a determination. The Supreme Court, in its review, may make its own findings of fact based upon the record before it.
 - 2) In instances where the Board of Ethics levies a fine in excess of \$1,000, the aggrieved party may seek review by the Dutchess County Legislature solely on the issue of excessive fine. The request for Legislative review shall be in writing and filed with the Clerk of the Legislature and the Board of Ethics within ten (10) days of receipt of notice of said determination. Upon receipt of such request, the Clerk shall refer the matter to the Budget, Finance, and Personnel Committee of the Legislature for its review and recommendation in Executive Session. In conducting its review, the Personnel Committee shall be restricted to only

materials or testimony presented to the Board of Ethics. The Personnel Committee shall recommend an affirmance or reduction of the fine. The Personnel Committee's recommendation shall be in the form of a resolution submitted for action by the full Legislature. The Legislature shall have ninety (90) days from the date the Clerk receives the notice within which to act on the request. The failure by the Legislature to take action within the ninety (90) days shall be deemed an affirmance of the determination of the Board of Ethics.

3) The time within which to commence a special proceeding in Supreme Court shall be tolled pending action by the County Legislature and the County Executive upon adoption of the resolution as provided in the County Charter.

SECTION 15. REPEAL OF LOCAL LAW NO. 3 OF 1971 AND LOCAL LAW NO. 7 OF 1990.

Local Law No. 3 of 1971, establishing a Board of Ethics for the County of Dutchess and Local Law No. 7 of 1990, establishing a Code of Ethics for the officers and employees of the County of Dutchess, are hereby repealed in their entirety.

SECTION 16. AUTHORITY.

The provisions of this local law are enacted pursuant to the authority granted by Article 18 of the General Municipal Law. Notwithstanding anything to the contrary, the County of Dutchess hereby elects to remove itself from the ambit of all of the provisions of Section 812.

SECTION 17. SEVERABILITY.

If any clause, sentence, paragraph, section, subdivision, item or other part of this local law or the application thereof to any person or circumstance should be held by a court of competent jurisdiction to be invalid, void, or violative of a constitution or controlling law, such judgment, holding or determination shall be restricted to such clause, sentence, paragraph, section, subdivision, item or other part or the application thereof and shall not apply to the remaining parts of such local law. To this end, the provisions of each clause, sentence, paragraph, section, subdivision, item or other part of this local law are hereby declared to be severable.

SECTION 18. EFFECTIVE DATE.

This local law is not subject to any mandatory or permissive referendum and, therefore, shall take effect immediately upon filing in the Office of the Secretary of State.