

# 2015 LOCAL LAWS OF ORANGE COUNTY

## LOCAL LAW NO. 1 OF 2015

### A LOCAL LAW TO AUTHORIZE THE SALE AND USE OF SPARKLING DEVICES.

**BE IT ENACTED**, by the Legislature of the County of Orange, as follows:

#### **SECTION ONE. Legislative Findings.**

The Orange County Legislature finds that the enacted State law, Chapter 477 of the Laws of 2014 amended the State Penal Law, the Executive Law, and the General Business Law with the intent to modernize the statute dealing with illegal fireworks, provide additional definitions of what constitutes fireworks and dangerous fireworks and remove certain novelty devices, which are not recognized as fireworks by the federal government, out of the definition of fireworks.

The Orange County Legislature finds that through the modernization of the statute and clearly defining the terms fireworks, dangerous fireworks and novelty devices, the new law provides law enforcement with an important tool in reducing the use of illegal fireworks and homemade devices and encourages the use of safe and legally regulated novelty devices.

The Orange County Legislature finds the new law allows sparkling devices to be sold and used in municipalities that affirmatively enact a local law authorizing the exclusion "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks".

The Orange County Legislature finds that allowing residents and visitors the opportunity to use safe "sparkling devices" will benefit them and local businesses.

The Orange County Legislature finds that only those who are 18 years of age or older may purchase sparkling devices and that the sparkling devices shall only be sold between June 1<sup>st</sup> and July 5<sup>th</sup> and December 26<sup>th</sup> and January 2<sup>nd</sup> of each calendar year.

The Orange County Legislature further finds that all distributors, manufacturers, and retailers of sparkling devices must be licensed through the New York State Department of State.

#### **SECTION TWO. Authorized sale and use of sparkling devices.**

1. Pursuant to section 405 (5) (b) of the New York State Penal Law (Penal Law) and Penal Law section 270 (3)(b)(v) as enacted by Chapter 477 of the Laws of 2014, "sparkling devices" shall be excluded from the definition of "fireworks" and "dangerous fireworks" as those terms are defined by Penal Law sections 270(1)(a)(i) and 270(1)(b) respectively.

2. The sale and use of "sparkling devices" as defined in Penal Law section 270(1)(a)(vi) which is incorporated hereunder shall be lawful in Orange County provided such sale and use are not in violation of Section 270 of the Penal Law or any rules and regulations thereunder.

3. "Sparkling Devices" are defined as follows:

"Sparkling Devices" which are ground-based or hand-held devices that produce a shower of white, gold, or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored

flame, an audible crackling effect, an audible whistle effect, and smoke. These devices do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report (an audible crackling-type effect is not considered to be a report). Ground-based or hand-held devices that produce a cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include:

- (1) cylindrical fountain: cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that may be contained in a different shaped exterior such as a square, rectangle, cylinder or other shape but the interior tubes are cylindrical in shape. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle to be hand held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, and when tubes are securely attached to a base and the tubes are separated from each other on the base by a distance of at least half an inch (12.7 millimeters), a maximum total weight of five hundred grams of pyrotechnic composition shall be allowed.
- (2) cone fountain: cardboard or heavy paper cone containing not more than fifty grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, as is outlined in this subparagraph.
- (3) wooden sparkler/dipped stick: these devices consist of a wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to one hundred grams of pyrotechnic composition per item.
- 4) novelties which do not require approval from the United States department of transportation and are not regulated as explosives, provided that they are manufactured and packaged as described below:
  - (A) party popper: small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain not more than sixteen milligrams (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of seventy-two devices.
  - (B) snapper: small, paper-wrapped devices containing not more than one milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed fifty devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material.

### **SECTION THREE. Severability**

If any part of or provisions of this law, or the application thereof to any person or circumstance, shall be adjudged invalid by any court of competent jurisdiction, such judgment shall

be confined in its operation to the part of or provision of, or application directly involved in the controversy in which such the remainder of this law, or the application thereof to other persons or circumstances.

**SECTION FOUR. Effective date**

This local law shall take effect immediately upon filing with the New York State Secretary of State.

Local Law No. 1 of 2015 was passed on, March 5, 2015 by the following roll call vote:

Ayes: 18

Noes: 3

Absent: 0

Approved by the County Executive: March 26, 2015

Filed with the Secretary of State: April 10, 2015

Effective: April 10, 2015

## LOCAL LAW NO. 2 OF 2015

### A LOCAL LAW OF THE COUNTY OF ORANGE, NEW YORK, TO BE KNOWN AS "ROCKY'S LAW", PROTECTING ANIMALS FROM ABUSE BY ESTABLISHING A REGISTRY FOR ANIMAL ABUSERS

**BE IT ENACTED** by the Orange County Legislature as follows:

#### **Section 1.** Title.

This Local Law shall be known as "Rocky's Law", and also as the "Animal Abuser Registry Law."

#### **Section 2.** Legislative Findings.

The Legislature finds and determines that animal cruelty is a serious problem resulting in the abuse of many animals each year and that while the State of New York has criminalized the cruel treatment of animals, animal abuse and cruelty continues to occur in Orange County and throughout New York State.

The Legislature further finds and determines that people who have abused animals in the past are likely to do so in the future and studies show that there is a near 100% recidivism rate for certain types of abuse such as animal hoarding.

The Legislature further finds and determines that individuals who abuse animals are statistically more likely to commit violent acts against humans and, in particular, the Legislature also determines that a strong correlation has been established linking individuals who abuse animals with incidents of domestic violence<sup>1</sup>.

The Legislature further finds and determines that animals in need of homes need to be protected from potential abusers<sup>2</sup>.

1:  
"Animal Hoarding: Slipping into the Darkness", Jane Nathanson, Tufts University, 2009.

2:  
"The Link: Cruelty to Animals and Violence Towards People", Cynthia Hodges, Michigan State University, 2008.

The Legislature further finds and determines that it is in the best interest of the residents of Orange County and their animals that an online registry be established identifying individuals residing in Orange County convicted of animal abuse crimes that will prevent these individuals convicted of animal cruelty from adopting, purchasing, or otherwise obtaining animals from any animal shelter, pet seller, or other person or entity involved in the exchange of animals by adoption, sale, or other means.

#### **Section 3.** Definitions.

As used in this local law, the following terms shall have the meanings indicated:

"Animal Abuse Crime" – Any of the following crimes:

(a) A violation of any of the following provisions of the NYS Agriculture Markets Law (AML) Article 26:

Section 351 – Prohibition of animal fighting

Section 353 – Torturing and injuring animals; failure to provide proper sustenance

Section 353-A – Aggravated cruelty to animals

Section 355 – Abandonment of animals

Section 356 – Failure to provide proper food and drink to impounded animal

Section 359 – Carrying animal in a cruel manner

Section 360 – Poisoning or attempting to poison animals

Section 361 – Interference with or injury to certain domestic animals

Section 362 – Throwing substance injurious to animals in public place

Section 365 – Clipping or cutting the ears of dogs

Section 366 – Companion animal stealing

Section 366-A – Removing, seizing or transporting dogs for research purposes

(b) Sexual misconduct with an animal in violation of NYS Penal Law (PL) §130.20(a)

(c) Harming a service animal in violation of PL §242.10 and PL §242.15

(d) Killing or injuring a police animal in violation of PL §195.06

(e) Harming an animal trained to aid a person with a disability in violation of PL §195.12

“Animal” –Any living mammal (except a Human Being), bird, reptile, amphibian, or fish.

“Animal Abuse Offender”–Any person eighteen (18) years of age, or older, convicted of an Animal Abuse Crime, except youthful offenders whose convictions or adjudications include sealed records.

“Animal Abuser Registry” – The on-line registry established by this Local Law for registering any person residing in Orange County convicted of an Animal Abuse Crime.

“Animal Shelter” – Any public or privately owned organization including, but not limited to, any duly incorporated humane society, pound, animal protective association or animal rescue group which maintains buildings, structures, or other property for the purpose of harboring animals which may be stray, unwanted, lost, abandoned, or abused and seeks to find appropriate temporary or permanent homes for such animals.

“Conviction” – An adjudication of guilt by any court of competent jurisdiction whether upon verdict after trial, plea of guilty, or nolo contendere plea.

“Farm Animal” – An Animal used in the production of human or animal food, feed or fiber.

“Pet Seller” – Any individual, person, partnership, firm, corporation or other entity which offers animals for sale or is engaged in the sale, exchange, or other transfer of ownership of animals.

“Service Animal” – Any dog or miniature horse that has been individually trained to do work or perform tasks for people with disabilities as defined under the ADA (Americans with Disabilities Act).

#### **Section 4.** Establishing an Animal Abuser Registry.

The Orange County Sheriff, or his/her designee, is hereby authorized, empowered and directed to establish an on-line Animal Abuser Registry that shall contain the names and residence information of all available Animal Abuse Offenders living in Orange County who are convicted of an animal abuse crime on or after the effective date of this law. The on-line Registry will be maintained by the Orange County Sheriff's Office and shall be listed on the Orange County official website within an Orange County Sheriff's Office web page. The on-line Animal Abuser Registry shall also contain links to other county Animal Abuser Registries that are available, or as they become available in the future, in the state of New York, with such other county registries to be used as informational resources by Animal Shelters, Pet Sellers, or other persons or entities located in Orange County when they shall sell, exchange or otherwise transfer the ownership of any animal.

The registry shall contain the required information about each Animal Abuse Offender for a period of fifteen (15) years following his or her release from incarceration or, if not incarcerated, from the date of the judgment of conviction. Any currently or previously registered Animal Abuse Offender convicted of a subsequent Animal Abuse Crime shall be placed on the Animal Abuser Registry for life following the second conviction. Upon notification to the Orange County Sheriff's Office of a successful appeal of a conviction of an Animal Abuse crime by an individual that has been required to register pursuant to this local law, the registration information for that individual shall be removed from the Orange County Animal Abuser Registry within five (5) days following the notification.

#### **Section 5.** Registry Requirements.

(A) All Animal Abuse Offenders who reside in Orange County and who are convicted of an Animal Abuse Crime on or after the effective date of this article must register with the Orange County Animal Abuser Registry within five (5) days of their release from incarceration or, if not incarcerated, from the date of the rendering of judgment.

(B) When a person is convicted of an Animal Abuse Crime, the prosecuting agency shall forward to the Sheriff's Office the name and address of the convicted person along with the name of the Animal Abuse Crime the person was convicted of, thereby notifying the Sheriff's Office that the person is required to register with the Animal Abuser Registry.

(C) Each person required to register with the Animal Abuser Registry shall submit to the Orange County Sheriff's Office:

- (i) their name and any aliases they may be known by;
- (ii) their residence address;
- (iii) their date of birth; and
- (iv) a photograph of the front of their head and shoulders not less than 2" x 3" or a digital image commonly known as a digital photograph of the front of their head and shoulders.

(D) Every person required to register with the Animal Abuser Registry shall update their registry information within five (5) days of any change of residential address and/or upon any official change of name.

(E) Every person required to register with the Animal Abuser Registry shall pay a fee of one hundred twenty-five (\$125) dollars to the Orange County Sheriff's Office at the time of registration. All such fees shall be used to help pay the administrative and maintenance costs of maintaining the registry.

(F) The Orange County Sheriff is hereby authorized and empowered to promulgate such rules and regulations as may be necessary to implement the Animal Abuser Registry.

**Section 6.** Animal Shelters and Pet Sellers Prohibited from Transferring Animal Ownership to Animal Abuse Offenders.

No Animal Shelter, Pet Seller, or other person or entity located in Orange County shall sell, exchange or otherwise transfer the ownership of any animal to any person having resided in Orange County and listed as an Animal Abuse Offender on the Animal Abuser Registry, nor shall such Animal Abuse Offender be allowed to retain possession of any currently owned animals. Prior to the sale, exchange, or other transfer of ownership of any animal, the Animal Shelter, Pet Seller, or other person or entity is required to examine the Animal Abuser Registry to confirm that the name of the potential owner of the animal is not listed.

This section shall not apply to Farm Animals for farmers, nor to Service Animals for people with disabilities.

**Section 7.** Penalties.

(A) Any Animal Abuse Offender required to register with the Animal Abuser Registry who fails to so register shall be guilty of a misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed two thousand (\$2,000) dollars.

(B) Any Animal Abuse Offender who violates the prohibition against possessing, owning, adopting, or purchasing an animal – except for Farm Animals for farmers, and Service Animals for people with disabilities – shall be guilty of a misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed five thousand (\$5,000) dollars.

(C) Any Animal Shelter, Pet Seller or other individual or entity that violates Section 6 of this Local Law shall be guilty of a violation and subject to a fine not to exceed five thousand (\$5,000) dollars. It shall not be a violation of this law if the Animal Shelter, Pet Seller, or other individual or entity checked with the Orange County Animal Abuser Registry and the name did not appear thereon.

**Section 8.** Severability.

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

**Section 9.** Effective Date.

This Local Law shall take effect as provided by the New York State Municipal Home Rule Law and upon completion of the requisite filings and procedures.

Local Law No. 2 of 2015 was passed on May 8, 2015 by the following roll call vote:

Ayes: 21

Noes: 0

Absent: 0

Approved by the County Executive: June 5, 2015

Filed with the Secretary of State: June 16, 2015

Effective: June 16, 2015

## **LOCAL LAW NO. 3 OF 2015**

### **A LOCAL LAW TO CONTINUE THE IMPOSITION OF TAX UNDER LOCAL LAW 13 OF 2009, KNOWN AS THE "ORANGE COUNTY HOTEL AND MOTEL ROOM OCCUPANCY TAX LOCAL LAW" FOR AN ADDITIONAL THREE YEARS.**

**BE IT ENACTED**, by the Orange County Legislature, as follows:

#### **Section 1. Background and Purpose.**

Local Law No. 13 of 2009 as continued by Local Law No. 1 of 2012 will expire at midnight on August 24, 2015. Section 3 of Local Law No. 1 of 2012 provides that "on and after the 15<sup>th</sup> day of September, 2015, there is hereby imposed and there shall be paid a tax of five percent upon the rent for every occupancy of a room or rooms in a hotel or motel in the County, except that the tax shall not be imposed upon (1) a permanent resident, or (2) exempt occupant," which are defined in section 02 of Local Law 1 of 2012.

Pursuant to section 25 of Local Law No. 1 of 2012, the local law "shall remain in full force and effect for a period of three (3) years from the effective date of its enactment; except nothing shall prohibit or prevent the adoption and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this local law."

The purpose of this local law is to continue to impose a tax on facilities providing lodging on an overnight basis and provide for the collection thereof as provided for in Local Law No. 1 of 2012 in order to continue to make funds available to deposit in the general fund of Orange County to be allocated and to continue to enhance the general economy of Orange County for an additional period of three (3) years as authorized under section 25 of Local Law No. 1 of 2012.

#### **Section 2. Continuation of the Effect of Local Law No. 1 of 2012 pursuant to Section 25 of Local Law 1 of 2012.**

The continuation of the imposition of a tax under this local law shall commence immediately upon the expiration of Local Law No. 1 of 2012 as stated herein and shall continue for a period of three (3) years; except nothing shall prohibit or prevent the adoption and enactment of subsequent local laws continuing or imposing the tax as authorized under Local Law No. 1 of 2012 for a period of three (3) years upon the expiration of this local law.

#### **Section 3. Effective Date**

This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York State.

Local Law No. 3 of 2015 was passed on June 4, 2015 by the following roll call vote:

Ayes: 20  
Noes: 1  
Absent: 0

Approved by the County Executive: June 25, 2015

Filed with the Secretary of State: July 7, 2015

Effective: July 7, 2015

## LOCAL LAW NO. 4 OF 2015

### **A LOCAL LAW AMENDING LOCAL LAW NO. 8 OF 1968, KNOWN AS THE ORANGE COUNTY CHARTER, AND LOCAL LAW NO. 10 OF 1969, KNOWN AS THE ORANGE COUNTY ADMINISTRATIVE CODE, AS PREVIOUSLY AMENDED, PROVIDING FOR THE CONSOLIDATION OF THE DEPARTMENT OF INFORMATION TECHNOLOGY WITH THE DEPARTMENT OF GENERAL SERVICES.**

**BE IT ENACTED** by the County Legislature of the County of Orange, a Local Law as follows:

#### **LEGISLATIVE FINDINGS.**

The Orange County Legislature hereby finds as follows: that County governments are being faced with many challenges related to the economy, fiscal constraints and compliance with the "tax cap" law; that the world of Information Technology is rapidly evolving as we all continue to use and depend upon technology in our daily lives; that the use of modern informational technology has led to more efficiency in the areas of finance and operations, and has also made a difference when it comes to public safety, health and welfare. The Legislature further finds that procurement of technology and the utilization of that procured technology must be implemented together if the County is to create the greatest efficiency in the use of technology. The Legislature finds that the opportunity to consolidate the Department of Information Technology into the Department of General Services, along with the support of the County Executive for such consolidation, has presented itself and should be implemented.

**Section 1.** Article XIV of the Orange County Charter, entitled "Department of Information Technology" is hereby REPEALED in its entirety.

**Section 2.** Section 27.02 of the Orange County Charter is amended by adding new paragraphs 12 and 13 to read as follows:

- (12) (i) have charge of the management and processing of information and data for all units of Orange County Government and all other local governments or other entities that may contract with Orange County for such services;
- (ii) be responsible for the ongoing development of efficient information systems including data and word processing, and other information management techniques;
- (iii) be responsible for the continuing development of programs designed to provide accurate, sufficient and timely information for decision making and service provisions by all units of Orange County Government, and any entity contracting with Orange County for such services;
- (iv) coordinate and consult with all units of Orange County Government and any entity contracting with Orange County for such services, relating to the planning, development, organization and use of information management techniques; and
- (v) assist as may be requested, the Orange County Community College with the duties otherwise described in this paragraph at such College.

**Section 3.** Article 14 of the Administrative Code of the County of Orange, entitled "Department of Information Technology" is hereby REPEALED.

**Section 4.** The Commissioner of Human Resources shall, within sixty days of the enactment of this Local Law, submit to the Legislature a Resolution to amend necessary Employment Schedules required as a result of the enactment of this Local Law.

**Section 5.** This Local Law amending the Orange County Charter and Administrative Code shall take effect in the manner provided in the Municipal Home Rule Law and upon the completion of the requisite filings and procedures.

Local Law No. 4 of 2015 was passed on May 7, 2015 by the following roll call vote:

Ayes: 19

Noes: 2

Absent: 0

Approved by the County Executive: June 1, 2015

Filed with the Secretary of State: July 28, 2015

Effective: July 28, 2015

## LOCAL LAW NO. 5 OF 2015

### A LOCAL LAW ENTITLED "ORANGE COUNTY ETHICS AND DISCLOSURE LAW."

**BE IT ENACTED**, by the County Legislature of the County of Orange, as follows:

#### Section 1. Title, Purpose, and Statutory Authority.

- A. Title: This Law shall be known as and may be cited as the "County Ethics Law."
- B. The purposes of this Local Law are to:
- (1) Establish standards of ethical conduct for officers, employees and consultants of Orange County;
  - (2) Provide officers, employees and consultants of Orange County, whether elected or appointed, paid or volunteer, with clear guidance on such standards;
  - (3) Promote public confidence and integrity in the agencies and administrative offices of our local government;
  - (4) Facilitate the 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 Orange County officers and employees; and
  - (5) Provide for the fair and effective administration of this Local Law.
- C. This Local Law is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to, nor shall it authorize any conduct prohibited by Article 18 of the General Municipal Law.

#### Section 2. Definitions.

Unless otherwise stated or unless the context otherwise requires, the following terms shall, for the purpose of this Local Law, have the meaning herein indicated throughout this Local Law:

**APPEAR** and **APPEAR BEFORE**: Communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone or electronic means.

**BOARD OF ETHICS (or ETHICS BOARD)**: The Board of Ethics of the County of Orange, as continued, re-established and reconstituted pursuant to § 4 of this Local Law.

**CHIEF FISCAL OFFICER**: The Commissioner of Finance or other officer having similar powers and duties.

**CONTRACT**: Any claim, account or demand against or agreement with the County, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice,

resolution, ordinance, local law or other proceeding where such publication is required or authorized by law.

**CONTRACTUAL GOODS/SERVICES:** Any work performed or goods delivered by a person or entity to the Customer or Client under mutual agreement of the two parties and provided the transaction has been finalized, without dispute, by the two parties.

**COUNTY:** County of Orange, and shall include any County improvement district, district corporation, or other district or a joint service established for the purpose of carrying on, performing or financing one or more improvements or services intended to benefit the health, welfare, safety or convenience of the inhabitants of the County or to benefit the real property within the County.

**COUNTY OFFICER OR EMPLOYEE:** 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:

- A. An individual when serving in his or her capacity as a judge, justice, officer or employee of the court system; or
- B. 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.

**CUSTOMER or CLIENT:** Any person for whom a County officer or employee has directly supplied contractual goods/services during the previous 24 months.

**GIFT and FINANCIAL BENEFIT:** Includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law or other items or services otherwise excluded as gifts as provided for in § 6(D) of this Local Law.

**INTEREST:** a direct or indirect pecuniary or material benefit accruing to a County officer or employee as the result of a contract with the County of Orange which such officer or employee serves. For purposes of this Local Law, a County officer or employee shall be deemed to have an interest in the contract of:

- a. his or her spouse, unemancipated children, dependents, and members of the household except a contract of employment with the County which such officer or employee serves;
- b. A firm, partnership, company, or association of which such officer or employee is a member or employee of;
- c. A corporation of which such officer or employee is an officer, director or employee; and,
- d. A corporation, any stock of which is owned and controlled directly or indirectly by such officer or employee where such officer or employee owns five percent or more of outstanding stock but shall not include any publicly traded corporation.

**LOCAL ELECTED OFFICIAL:** shall mean an elected official of the political subdivision (County Executive, District Attorney, County Clerk, Sheriff, and Legislators), except judges or justices of the unified court system.

**MINISTERIAL ACT:** An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

**OUTSIDE EMPLOYER OR BUSINESS:**

- a. 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;
- b. Any entity, other than the County, of which the County officer or employee is a member, officer, director, or employee and from which he/she receives compensation for services rendered or goods sold or produced; or
- c. 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 5% of the outstanding stock.
- d. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses or allowances.

**PARTY:** shall have the same meaning as contained in § 1-104 of the N.Y.S. Election Law.<sup>1</sup>

**PERSON:** Both individuals and entities.

**PROSPECTIVE EMPLOYER:** Any person whom any officer or employee of Orange County required to annually file an ethics disclosure form under this Law, or the Relative/Immediate Family Member of, has within the past twelve months sought employment from, to the extent that such officer or employee has actual knowledge of such Relative/Immediate Family Member of such officer or employee actual seeking such employment or independent contract from such person or entity. The phrase "past twelve months" shall not refer to the twelve months preceding the adoption of this Local Law but the twelve months preceding the matter giving rise to the conduct which permits or disallows a contract or expenditure under this Local Law.

**RELATIVE/IMMEDIATE FAMILY MEMBER/MEMBER OF HOUSEHOLD:** A spouse, unemancipated child or person claimed as a dependent on the County officer's or employee's latest individual or joint state income tax return or unrelated persons who are continually or at regular intervals living or in the preceding calendar year continually or at regular intervals lived in the same household.<sup>2</sup>

**SUBORDINATE:** The subordinate of a County officer or employee means another County officer or employee over whose activities he/she has direction, supervision, or control, either directly or indirectly (for example, the subordinate of a subordinate).

**"Unemancipated child"** shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.

---

<sup>1</sup> Election Law Section 1-104 (3), the term "party" means any political organization which at the preceding election for governor polled at least fifty thousand votes for its candidates for governor.

<sup>2</sup> Derived from Social Services Law Section 481-c Definitions Para. 2

### **Section 3. Prior Ethics Local Law Repealed.**

Local Law No. 2 of 1994, as amended, of the County of Orange, and known as the County Local Ethics Law is repealed upon the effective date of this Local Law; provided, however, that nothing, including this section shall prohibit the enforcement of the said Local Law No. 2 of 1994, as amended, of the County of Orange, for actions or inactions done or not done as the case may be, by those subject to such Local Law No. 2 of 1994, as amended, of the County of Orange, 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. 2 of 1994, as amended, of the County of Orange, 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 4. Continuation of the Board of Ethics and Authority Thereof.**

The Orange County Board of Ethics provided for in Local Law No. 2 of 1994, as amended, of the County of Orange, is hereby continued, reconstituted and the terms of the Members of such Board of Ethics shall continue uninterrupted until their expiration as made under Local Law No. 2 of 1994, as amended, of the County of Orange. The Board shall solely be empowered to make any determination or decision previously permitted for action or inaction of any person covered by Local Law No. 2 of 1994, as amended, of the County of Orange for the actions of or inaction of any such person prior to the effective date of this Local Law. Vacancies in the existing Board of Ethics shall be filled in the manner in which such person who shall have vacated such position was filled for the balance of the term of such member as provided for herein.

### **Section 5. Board of Ethics.**

#### A. Membership, Qualification of Board Members<sup>3</sup>, Removal.

1. Appointment and Confirmation. The Board of Ethics shall consist of seven members, appointed by the County Executive<sup>4</sup>, three of whom shall be nominated by the Chairman of the Orange County Legislature, three of whom shall be nominated by the County Executive of Orange County, and one of whom shall be nominated by the Board of Ethics. Of the three nominated by the Chairman of the Orange County Legislature, no more than two shall be of the same enrolled party affiliation. Of the three nominated by the County Executive, no more than two shall be of the same enrolled party affiliation. All appointments shall be confirmed by the Legislature. Failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity which the original member was selected.
2. Residency and eligibility requirements. All members of the Board of Ethics shall reside in the County of Orange and be eligible to register to vote in Orange County. Enrollment in a political party shall be deemed effective in conformance with Article 5 of Election Law of the State of New York. No member shall hold the office of Chair, First Vice Chair, Second Vice

---

<sup>3</sup> The Grand Jury Report, at recommendation # 8, recommended changing the composition of the Ethics Board to have an equal number of appointees of the Executive and Legislative Branches. In Ulster County, the Executive appoints all such members subject to Legislative Confirmation. This footnote not intended to be included in actual law.

<sup>4</sup> GML § 808 (1) "The members of such board of ethics shall be appointed by such governing body except in the case of a county operating under an optional or alternative form of county government, in which case the members shall be appointed by the county executive or county manager, as the case may be, subject to confirmation by such governing board....".

Chair, Secretary or Treasurer, or Sargent at Arms in a federal, state or Orange County political party.

3. Term of Office. The members of the Board of Ethics shall serve staggered three year terms. At the expiration of the term of office of any member of the Board of Ethics, said member shall continue to serve until reappointed or replaced by a new member.
4. Vacancies. Vacancies in the Board of Ethics shall be filled in the manner the vacated position was initially appointed and for the balance of the unexpired term.
5. Removal of Board Members. In addition to the penalties defined specifically for violation of the Orange County Ethics Law, and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed for cause by the County Executive. Prior to removal, the Board of Ethics member shall be given written notice of the grounds for removal and an opportunity to demand and receive an adjudicatory proceeding before a neutral and disinterested hearing officer to be provided by the County of Orange. Said proceeding shall be conducted according to "Regulations for Adjudicatory Proceedings" as adopted by the Orange County Legislature.<sup>5</sup>
6. Compensation. Members of the Board of Ethics shall receive no compensation for services rendered but shall be entitled to their reasonable and necessary expenses incurred in the performance of their duties, within appropriations made for such purposes.
7. Hiring of Staff and Consultants.
  - a. The Board of Ethics shall be responsible, for the hiring or retaining of any staff or consultants to the Board of Ethics consistent with civil service and other applicable laws and within appropriations made therefore. The secretary to the Board of Ethics shall not be a member of the Board of Ethics.
  - b. The County Attorney may provide legal and advisory services to the Board of Ethics as it may require in the performance of its duties<sup>6</sup>. Nothing herein shall require the Board of Ethics to utilize the County Attorney to provide such advice and the Board of Ethics may utilize outside Counsel under contract with the Board of Ethics. The County Attorney shall not provide such assistance if he or she deems the same may create a conflict.
  - c. The Board of Ethics shall utilize special counsel in reviewing and/or advising on and/or acting on any matter relating to an attorney actually engaged in the practice of law who is employed by Orange County. Neither such special counsel nor his or her firm shall have appeared in a case during the two years preceding the matter referred to the Board of Ethics, where such Orange County employed attorney or his or her office or department has appeared.
8. Organization and Meeting Requirements. The Board of Ethics shall elect a Chairperson and other officers from among its members. The Chairperson or a majority of the Board may call a meeting of the Board. The Board of Ethics shall meet a minimum of two times a year. Four members of the Board shall constitute a quorum and shall be required for the purpose of conducting a meeting. Unless otherwise provide by this

---

<sup>5</sup> Derived from Local Law No. 2 of 1994 Section 6 paragraph 3.

<sup>6</sup> Noted in Grand Jury Report in Recommendation # 7: "Increase the Resources of the Board of Ethics." This footnote not intended to be in the actual local law.

local law, a concurring vote of four members shall be required for the Board to take action.

## **B. Powers and duties of Ethics Board**

(1) **Render Advisory Opinions.** The Board of Ethics shall render advisory opinions to the officers and employees of the County of Orange with respect to Article 18 of General Municipal Law, the Code of Ethics of the County of Orange (as set forth herein and known as the "Orange County Ethics and Disclosure Law"), and the Administrative Code. Such advisory opinions shall be in response to written request from any such officer or employee under such rules and regulations as the Board may prescribe.

a. **Who Opinions May be Issued to.** An advisory opinion shall be rendered on the request of a County officer or employee or supervisory official of a County officer or employee and shall apply only to such person. The request shall be in such form as the Board may require and shall be signed by the person making the request. The opinion of the Board shall be based on such facts as presented in the request or subsequently submitted in a written, signed document.

b. **Advisory opinions shall be issued only with respect to proposed future action by a public servant.** A County officer or employee whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The Board may amend a previously issued advisory opinion after giving reasonable notice to the County officer or employee that it is reconsidering its opinion, provided that such amended advisory opinion shall apply only to future conduct or action of the person. The Board of Ethics shall endeavor in all circumstances to render an advisory opinion within ten business days<sup>7</sup> from the date in which the Board of Ethics determines that it has received sufficient information to render such opinion but shall do so within thirty days from the date of receiving all such sufficient information, unless the person seeking the opinion consents to an extension and agrees to not engage in the action which triggered the request for an opinion during the pendency of the request for an opinion.

c. **Advisory Opinions to be summarized as part of the Annual Report.** The Board of Ethics shall provide a summary of the advisory opinions issued in each year as part of the Board of Ethics Annual Report.<sup>8</sup> The advisory opinions of the Board shall be maintained on an annual and cumulative basis.

(2) **Receive Information and Act on the Same.** 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 Orange 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.

a. **Complaints to be signed.** All such complaints shall be signed.

---

<sup>7</sup> The Grand Jury Report recommended "Require Prompt Reporting of Ethics Board Opinions." Grand Jury Report item # 6. This footnote not intended to be in the actual local law.

<sup>8</sup> See, Opinion of NYS, Dept. of State, Committee on Open Government dated December 1, 2003, which opines that Advisory Opinions of a local Board of Ethics "may" not be disclosed under Freedom of Information Law Section 87(2) (b) as an unwarranted invasion of personal privacy and/or Section 87(2) (g), as it consists of a recommendation of the Board which is not final or binding.

- b. 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.
- c. Ethics Board Member to Bring Forward an Allegation or Complaint of a Conflict of Interest. To the extent that a Board member personally receives information of an allegation or complaint of a conflict of interest based upon information and belief, then such Member of the Board of Ethics shall bring the complaint forward for review and investigation by the Board of Ethics. Such member may continue to participate in the review of the allegation or complaint only so long as such Member is not a witness but only forwarded an allegation he or she received. The Members of the Ethics Board shall be entitled to the source of the information and belief of the allegation or complaint which information may be chosen to be kept confidential by the Ethics Board to the extent permitted by law.

(3) **Dismissal of Complaint.** Should the Board determine that there appears to be no merit to the complaint, it shall dismiss the complaint and notify the County officer or employee of its determination in writing.

(4) **Meetings of Board and Hearings by Board.**

- a. Meetings of the Board shall conform to Article 7 of the Public Officers (Open Meetings) Law.
- b. 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.
- c. Should the Board determine, by a super majority vote of its members, that there appears to be merit or probable cause in the complaint or allegation, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the Board and explain the apparent conflict of interest. The written invitation shall be in the form of a notice and shall contain a statement of the facts upon which the Board has relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The Board shall also inform the County officer or employee of the Board's procedural rules. Such County officer or employee shall have a reasonable time to respond either orally or in writing and shall have the right to be represented by counsel or any other person.
- d. If, after consideration of the response of the officer or employee, the Board determines by a super majority vote of its members that there remains probable cause to believe that a violation has occurred, the Board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred and/or refer the matter to the appropriate department or appointing authority if the County officer or employee is subject to the jurisdiction of any state law or collective bargaining agreement which provides for conduct of disciplinary proceedings. When such matter is referred to such department or appointing authority, the department or appointing authority shall consult with the Board before issuing a final decision.

- e. If the Board determines, by clear and convincing evidence and by a super majority vote of its members, after a hearing or the opportunity for a hearing, that a County officer or employee has violated this Local Law, it shall, after consultation with the head of the department or appointing authority for the officer or employee, issue an order either imposing such penalties as provided for by this Local Law as it deems appropriate or recommending such penalties to the head of the department or appointing authority. The Order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the department or the appointing authority shall report to the Board what action was taken.
- f. 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 violated this Local Law.
- g. The Board 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 determination of probable cause and orders in such cases shall be made available for public inspection and copying.
- h. Remedy Not Exclusive. Nothing contained in this section shall prohibit the appointing officer of a County officer or employee from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the Board from exercising its powers and duties under this Local Law with respect to actions of any public servant.
- i. Regulations of Procedure. The Orange County Legislature hereby adopts regulations governing the conduct of adjudicatory proceedings and appeals relating to the proceedings authorized herein, including the assessment of the civil penalties herein authorized, which are appended to this Local Law as APPENDIX C. Such regulations shall provide for the due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act, but such mechanisms need not be identical in terms of scope.
- j. In January of each calendar year, the Board of Ethics shall select a panel of five (5) individuals, licensed to practice law in the State of New York to serve as hearing officers during the calendar year.
- k. Right to Counsel. Any person compelled to appear in person or who voluntarily appears before the Board of Ethics shall be accorded the right to be accompanied, represented by, and/or advised by counsel or such other person as may be provided by a collective bargaining agreement with Orange County applicable to such person.

(5) **Other Powers of Board.** In addition to other powers and duties provided for herein, the Board:

- a. May make recommendations with respect to this Local Law or amendments thereto upon its own motion or upon the request to the Orange County Executive, the Orange County Legislature, or both;

- b. Shall promulgate rules and regulations governing its own organization and procedures, except as prescribed herein.
- c. Shall maintain records of its opinions and proceedings. Copies of all rules and regulations promulgated by the Board and any and all amendments thereto which may be adopted from time to time shall be filed with the Clerk of the Orange County Legislature and County Attorney within 10 days of their adoption;
- d. Shall administer the provisions of this Local Law;
- e. Shall review, index and maintain all annual disclosure statements filed with the Board of Ethics.
- f. Shall prepare and submit an annual report to the Orange County Executive and Legislature summarizing the activities of the Board of Ethics, listing any recommended changes to the text or administration of this Local Law.
- g. Shall provide for public inspection of certain records. The records of the Board of Ethics which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by other state or federal law or regulation.

(6) **Referral by Local Boards.** Referral by Local Board to Board of Ethics. The Board shall not act with respect to officers and employees of any municipality located within the County or agency thereof 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.

## **Section 6. Standard of Conduct of All County Officers and Employees.**

### **A. General prohibition.**

A County officer or employee, whether or not required to file an ethics disclosure form as otherwise provided for herein, shall not use his/her official position or office or take or fail to take any action in a matter which he/she knows or has reason to know may provide a personal financial benefit or secure unwarranted privileges or exemptions for any person, employer, business, or prospective employer of any person.

### **B. Recusal by Officers and Employees.**

(1) A County officer or employee shall promptly recuse himself/herself from acting on a matter before the County when knowingly acting on the matter, or knowingly failing to act on the matter, may cause a direct and specific benefit to (i) such person; (ii) the Outside Employer, business, or prospective employer of such County officer or employee; (iii) the Outside Employer, business, or prospective employer of a relative or immediate family member of the County officer or employee; a relative or immediate family member; a customer or client of any such person.

(2) A County officer or employee shall promptly recuse himself/herself from acting on a matter before the County when such action would give the reasonable appearance of a conflict of interest or impropriety.

(3) Whenever a County officer or employee is required to recuse himself/herself, he/she must refrain from further participation in the matter.

C. **Representation.** A County officer or employee shall not represent any private interest before any County agency or department or in any litigation in which the County of Orange is a party or complainant.

D. **Appearances.** A County officer or employee shall not appear before any agency or department of the County except on his/her own behalf or on behalf of the County or on behalf of his or her constituent(s) in the case of an elected official or attorney therefore.

E. **Hiring practices (“*Anti-Nepotism*”) and disclosure regarding contract relationship and county employment of relatives/immediate family members and/or members of the household**

(1) No County officer or employee with actual authority to cause the hiring of any person shall participate in any decision to hire any relative/ immediate family member and/or member of the household.

(2) Such actual authority shall be presumed even if the person extending the offer of employment is not the relative/ immediate family member of the person being hired if the person or persons extending the offer of employment is appointed by or serves at the pleasure of the relative/immediate family member or member of the household of the person being hired.

(3) Every County officer and employee related equal to or closer in degree, by blood or marriage, than first cousin, and members of the household, to any person(s) seeking a contractual relationship with the County or seeking employment within any department, section or function of the County shall promptly disclose such relationship upon learning of such relationship or the seeking of such relationship.

(4) The disclosure requirements of this section shall be made in writing, directed to the Chairman of the Board of Ethics, and shall be made at the earliest opportunity next following the date upon which such officer, employee, or board member, commission member, council member, or agency member first learns of or has knowledge of the making of the application by the person seeking employment and/or appointment.

F. **Prohibition on Acceptance of Gifts<sup>9</sup>.**

(1) A County officer or employee shall not accept or solicit any gift or gifts having an aggregate value of \$75 or more in any twelve month consecutive period, nor shall he/she accept or solicit any gift or financial benefit under circumstances in which it could reasonably be inferred that the gift was intended to influence such County officer or employee in the performance of his/her official duties or was intended to be a reward for any official action on his/her part;<sup>10</sup>

---

<sup>9</sup> The Grand Jury Report suggests changes in the Gift Law. Recommendation 3 of Grand Jury Report suggests prohibiting gifts of an aggregate amount of \$75 or more in any twelve month consecutive period. This footnote not intended to be in the law.

6. Legislative Law Section 1-c was amended, effective April 25, 2007 to delete a monetary amount of \$75 and provides that the gift cannot have “more than a nominal value” (L 2007, ch 14, § 23)

(2) The term "gift"<sup>11</sup> shall mean anything of more than nominal value given to a public official in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. 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 which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the public official serves attend or were, in good faith, invited to attend, and which is related to the attendee's duties or responsibilities or which allows the public official to perform a ceremonial function appropriate to his or her position. For the purposes of this exclusion, a public official's duties or responsibilities shall include but not be limited to either
  - a. 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
  - b. for elected public 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, district or jurisdiction from which the elected public official was elected;
- (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 a public official by a public or private college or university or school;
- (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 a public official and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;

---

<sup>11</sup> This definition of items excluded from "gift" is largely taken from Section 1-c of the Legislative Law of the State of New York. The *italicized portions* are intended to be additions to Section 1-c.

- (vii) gifts from a family member, member of the same household, or person with a personal relationship with the public official, 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 public officials; 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 14 of the Election Law, including contributions made in violation of that article of the Election Law;
- (ix) travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event or informational meeting when such reimbursement or 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 provided, however, that the public official may only accept lodging from an institution of higher education: (A) at a location on or within close proximity to the host campus; and (B) for the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event or meeting;
- (x) provision of local transportation to inspect or tour facilities, operations or property located in New York state *or in an adjoining state*, 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 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 subdivision;
- (xi) meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants;
- (xii) food or beverage valued at fifteen dollars or less; and
- (xiii) payment by any for-profit, non-profit association or organization which the County Officer or Employee receives professional training or assistance from and is directly related to their position or duties; by way of example and not limitation, if the New York State Association of Counties provides a partial or whole payment for a County Officer or Employee to attend a seminar, meeting, or training session, the same is

not a gift. Nothing herein shall permit the acceptance of any travel costs, services, or reimbursement thereof without permission from the County Executive or such other County Officer or Employee based on personnel or other policies of the County.

- (xiv) gifts or benefits having a value of \$100 or less that are received by a County officer or employee listed in § 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 of business at a time other than his or her normal hours of business.<sup>12</sup>
- (xv) professional advice with respect to issues that come before the County of Orange which has a monetary value.

**G. Political solicitation.** No County officer or employee shall directly or indirectly, use his or her authority or official influence to compel or induce any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.<sup>13</sup>

**H. Maintenance of Confidential information.** The New York State Freedom of Information Law (Public Officers Law § 87, Subdivision 2) describes information that is not required to be released under the Freedom of Information Law. This description should guide County employees and officers as to the information that may be considered confidential. Confidential information under this Local Law does not exceed the bounds for confidential information set by Public Officers Law § 87, Subdivision 2. Before a County employee or officer discloses information that may be considered confidential, he/she is encouraged to seek a written determination from the Department's Records Access Officer. The Department's Records Access Officer may seek an opinion from the County Attorney prior to making a determination. The restrictions on disclosure and use of confidential information described herein apply without regard to the circumstances in which the information was acquired and include information gained through means other than the possessor's association with the County.

**I. Avoidance of Conflicts.** County officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would put them in violation of this Local Law, including but not limited to solicitation of employment for themselves, their spouse, child member of the household of any County contractor if such officer or employee has discretion to award a contract to such contractor or has appropriate money for such specific contract (but not a contract awarded under an appropriation in the annually adopted County budget).

---

<sup>12</sup> See, N.Y.S. General Municipal Law Section 805-b Solemnization of marriages:

“Notwithstanding any statute, law or rule to the contrary, no public officer listed in section eleven of the domestic relations law shall be prohibited from accepting any gift or benefit having a value of one hundred dollars or less, whether in the form of money, property, services or entertainment, for the solemnization of a marriage by such public officer at a time and place other than the public officer's normal public place of business, during normal hours of business. For the purpose of this section, a town or village judge's normal hours of business shall mean those hours only which are officially scheduled by the court for the performing of the judicial function.

<sup>13</sup> Derived from N.Y.S. Civil Service Law Section 107 (3):

“No officer or employee of the state or any civil division thereof, shall, directly or indirectly, use his authority or official influence to compel or induce any other officer or employee of the state or any civil division thereof, to pay or promise to pay any political assessment, subscription or contribution.”

J. **Prohibition of Inducement of others.** A County officer or employee shall not induce or aid another officer or employee of the County to violate any of the provisions in this Local Law.

K. **Investments by County Officers/Employees.** A County officer or employee shall not knowingly invest or knowingly hold any investment directly or indirectly in any business, financial, commercial or other private transaction doing business with the County of Orange which would create a conflict with his/her official duties.

L. **Bidding by Officers and Employees on county owned real property acquired by tax sale.**

(i) No Orange County officers, employees or elected or appointed officials whose titles are listed in the attached schedule (APPENDIX D) may bid for or acquire or purchase any parcel or parcels of real property which is offered for sale by the County of Orange in any manner as a result of the tax delinquency of such parcel or parcels. This prohibition shall include a prohibition against such County officers, employees or officials bidding upon or acquiring or purchasing such properties directly or through an agent, representative, attorney or other third party, including but not limited to a spouse, child or member of the household. It shall be presumptive proof of a violation of this Law if such County officer, employee or official shall have acquired any interest whatsoever, including but not limited to the holding of a mortgage, lien or other financial interest, in any such property, howsoever acquired, either directly or through any third parties, within two (2) years of the date upon which such property was sold or conveyed by the County of Orange.

(ii) If, however, an Orange County officer, employee, or elected or appointed official, whose title is listed in the attached Appendix "D", owns land that adjoins a parcel or parcels which have been offered for sale, then such County officer, employee or official may by written request to the Board of Ethics seek to purchase said parcel upon the receipt of written approval to do so by the Board of Ethics. The Board of Ethics shall deny such approval on the basis of the existence of, or the appearance of, a prohibited conflict of interest, as defined under this Local Law, and/or other prevailing State or other laws, rules and regulations.

M. **Duty to Report Violations<sup>14</sup>.** Legislators, Countywide Elected Officials, and Department Heads and those holding the title of Deputy Commissioner or other person secondarily in charge of an entire Department shall be required to report violations of this local law to the Board of Ethics.

N. **Waiver.** A County officer or employee may apply for a waiver request form from any of the standards set forth herein upon a showing of compelling need. A waiver request form will be available from the Secretary of the Ethics Board and may be modified from time to time by the Board of Ethics as deemed necessary.

O. **Related Prohibitions.** No officer or employee shall take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Orange or any agency thereof

---

<sup>14</sup> Recommended by the Grand Jury Report. Item # 12. This footnote not intended to be in actual local law.

in which the official or employee, their spouse, child or sibling or a member of the household has or will have an interest, direct or indirect, in such contract or professional dealings.

## **Section 7: Prohibition of Interest in Contracts with County.**

### A. Prohibited interests.

1. 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 New York State General Municipal Law § 801.<sup>15</sup>

2. Unless the contract is required by law to have been so awarded, a contract entered into between the County and the Prospective Employer or Outside Employer of any person who appropriated funds for such contract, other than as part of the adopted annual County budget, or any employee who recommended such contract or approved such contract shall be null, void, and wholly unenforceable.

3. Unless the contract is required by law to have been so awarded, a contract willfully entered into by or with the County and the Prospective Employer or actual employer of any relative/immediate family member of a person who appropriated funds for such contract, other than as part of the adopted annual County budget, or any employee who played a role in recommending such contract for approval or approved such contract shall be null, void, and wholly unenforceable<sup>16</sup>.

4. Any contract willfully entered into by or with the County in which there is an interest prohibited shall be null, void, and wholly unenforceable, to the extent provided by General Municipal Law § 804.

5. Any contract willfully entered into by or with the County where an officer or employee violated the provisions of this law due to the relationship (or in the case of a prospective employer, the prospective relationship) between such officer or employee or relative/immediate family member or a member of the household of such officer or employee shall be null, void, and wholly unenforceable.

### B. Disclosure of interest.

In accordance with General Municipal Law § 803, any County officer or employee who has, will have, or later acquires an interest in or whose spouse or a member of the household has, will have or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the County shall publicly disclose the nature and extent of such interest in writing to and file with his or her immediate supervisor if they have a supervisor, and the Clerk of the County Legislature as soon as he or she has knowledge of such actual or prospective interest and in an annual ethics disclosure form if such form is required to be filed as described herein. Such written disclosure shall be made a part of and set forth in the official records of the proceedings of the Legislature. The Clerk of the Legislature shall immediately file a copy of such disclosure with the County Executive and the Board of Ethics.

---

<sup>15</sup> See, Local Law Section 14, "Supersession of State Law."

<sup>16</sup> It is not the intent of this paragraph to void contracts between the employers of Orange County Employees or the employers of the relative/immediate family member of an Orange County employee. Rather, it is the intent to void those of the employer of the relative/immediate family member's employer when such Orange County employee played a role in appropriating funds relating to the contract or recommending such contract or approving such contract.

## Section 8: Annual Disclosure.

Annual disclosure will take place in accordance with General Municipal Law § 812, except the following provisions shall be controlling:

A. County officers, employees, and contractors required to file disclosure statement. Annual disclosure statements shall be filed by all elected County officials, department heads and their deputies and those individuals who are employees of contractors and have the authority for policy-making decisions, including but not limited to the list of titles and contractors appended to this Local Law as **APPENDIX A**, which may be amended from time to time by resolution of the County Legislature. The list of contractors includes the actual person, not the employer of such person who performs substantive managerial or administrative functions as a contracting party on behalf of Orange County<sup>17</sup>.

B. County political party officials. The annual financial disclosure statement shall also be required of the Chair, First Vice Chair, Second Vice Chair, Treasurer and Secretary, Sargent at Arms, of a county political party, if such person or his successor in office received compensation or reimbursement of expenses from a constituted committee or political committee funds during the reporting period aggregating a combined total of \$30,000 or more.<sup>18</sup>

C. Any person who shall become a candidate for the office of any elected official of Orange County. The disclosure forms shall be filed by the candidate within 7 days after the filing of the nominating petitions of said candidate.<sup>19</sup>

D. Time and place for filing. Annual disclosure statements shall be filed with the Secretary of the Board of Ethics:

- (1) Within 60 days of taking office; and,
- (2) No later than May 1 of each year thereafter.

E. Changes in disclosed information. If it becomes apparent to any person required to file an annual disclosure form that there was an error in the same, the same shall be promptly corrected by filing an amended form with the Board of Ethics.

F. Contents of annual disclosure statements and waiver request forms. The County Legislature shall have the power and authority to promulgate and amend the form from time to time by local law and as provided for in and in conformity with § 811 or other applicable provisions of General Municipal Law.

G. The annual disclosure form shall be acknowledged and notarized and in substantially the form which is annexed hereto and made a part hereof as Appendix B. The Legislature, may, by local law, amend such form and such updated form shall be transmitted by the Clerk of the Legislature to the Chairman of the Ethics Board for use in the following calendar year or for use in such year as the amendment to the form is made if made before April 1. Such revised form shall also be utilized by new employees or Officers who have not yet filed a disclosure form, provided, however, that such new employee or Officer shall have sixty days from commencing employment until when the revised form must be filed.

---

<sup>17</sup> This provision is discussed in the Grand Jury at recommendation number 13. Note: This footnote not intended to be included in the actual law. .

<sup>18</sup> Derived from N.Y.S. Public Officer's Law Section 73 1. (K)

<sup>19</sup> Derived from N.Y.S. Gen. Munic. Law Section 812 and Orange County Local Law No. 2 of 1994, Section 5 Para 4.(c).

H. Maintenance of annual disclosure statements. The secretary of the Board of Ethics shall transmit to the Board of Ethics all annual disclosure statements required by this Local Law within five business days of receiving such statements.

I. Good faith efforts. Failure to disclose the information required by Subsection A of this section with respect to a County officer's or employee's spouse or member of the household or other relative as required by this local law shall not constitute a violation of the subsection if the officer or employee has made a good faith effort to obtain the information and if he/she sets forth those efforts in his/her annual disclosure statement.

J. Distribution of disclosure form. On or before the first day of March of each year, beginning with the year 2016 and thereafter, the Chairman of the Board of Ethics shall cause the annual statement of financial disclosure to be distributed to those persons required to file the same. The Chairman of the Board of Ethics may request the assistance of the Commissioner of Human Resources, provided the County Executive concurs with the same, in causing such dissemination to occur.

K. Hardship provision. Any person who is subject to the reporting requirements of this section and who timely filed with the Internal Revenue Service an application for automatic 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 May 1 but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplemental statement of financial disclosure which shall be filed on or before the seventh day after the expiration of the period of such extension of time actually granted within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this Local Law respecting annual statements of financial disclosure as if such supplementary statements were an annual statement.

L. Disclosure forms subject to Public Officers Law Article 6 ("Freedom of Information Law").<sup>20</sup> Ethics disclosure forms of county elected officials (County Executive, District Attorney, Sheriff, County Clerk and Legislators) shall be posted on the Orange County website. All other ethics disclosure forms shall be available for inspection and photocopying in accordance with New York State "Freedom of Information Law." Prior to public disclosure of any ethics disclosure form, the following personal information will be redacted: the address, phone number, email address of any person, the names of the employee or officer's minor children, any other relevant information determined by the Ethics Board necessary or appropriate to be redacted for reasons relating to the public safety or one or more persons or otherwise permitted to be redacted under the Public Officers Law, on the Ethics Board's own initiative, or upon the request of the officer or employee with the consent of the Ethics Board, but only if such information is not required to be made public pursuant to the Public Officers Law. The Sheriff and County Attorney of Orange County may be consulted by the Ethics Board in making a determination relating to portions of forms (or entire forms) not to be published.

## **Section 9. Penalties for Offenses.**

---

<sup>20</sup> Pursuant to recommendation of Grand Jury Report, recommendation # 4. This footnote not intended to be printed in local law.

A. Void contracts. Any contract or agreement entered into by or with the County in which there is an interest prohibited by this Local Law shall be null, void, and wholly unenforceable, to the extent provided by § 804 of General Municipal Law or the provisions of this Local Law.

B. Civil penalties. Any County officer or employee who violates any provision of this Local Law, including any reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this Local Law, shall be assessed a civil penalty in an amount not to exceed \$10,000 or the value of any financial benefit obtained by the violator or the spouse, child, or member of the household of the violator of this Local Law, whichever is greater. Assessment of a civil penalty hereunder shall be made by the Orange County Board of Ethics. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Orange County Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

C. Criminal penalties. For a violation of this Local Law, the Orange County Board of Ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor, and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated.

D. Disciplinary action. Any County officer or employee who violates any provision of this Local Law may be warned, reprimanded, suspended, or removed from office or employment, and/or be subject to any other sanction authorized by law or collective bargaining agreement by the appointing authority 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 section or in any other provision of law.

## **Section 10. Prohibitions Relating to Private Employment<sup>21</sup>.**

I. Employment Solicitation<sup>22</sup>. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

A. Prohibition relating to Appropriators or Authorizers. No county officer or employee responsible for appropriating funds for the effectuation of, or negotiating or authorizing a contract or signing a contract may ask for, pursue or accept a private post-government employment opportunity with any person or entity who actually received such contract for a period of two years after ceasing to be an officer or such an employee of Orange County. Appropriating funds for the effectuating of a contract shall relate to a specific matter, not voting generally on the annual County budget.<sup>23</sup>

---

<sup>21</sup> The Grand Jury Report recommended that standards be instituted for employees leaving county employment. Recommendation #10 of Grand Jury Report. This footnote not intended to be included in actual local law.

<sup>22</sup> The Grand Jury report recommended: "Prohibit soliciting employment from County contractors." Recommendation # 12 of Grand Jury Report. This footnote not intended to be included in actual local law.

<sup>23</sup> The County Executive enters into hundreds and perhaps thousands of contracts annually on behalf of the County. It is not the intent herein to prohibit a Legislator from accepting employment from those "run of the mill" contracts. Rather, from time to time, the Legislature appropriates money for specific purposes and a contract is thereafter entered into. It is those contractors which are intended to be the subject of this provision as it relates to a Member of the Legislature.

B. Intent. It is the intent of this section to prohibit elected officials or higher level County employees who have negotiated or signed a contract the County is a party to, from benefitting by later being hired by such contracting party.

C. Departmental Prohibitions. No county officer or employee, for the two-year period after serving as a county officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves. The exercise of discretion does not relate to ministerial matters.

D. Particular Transactions. No county officer or employee, at any time after serving as a county officer or employee, may represent or render services to a private person or organization for financial gain for themselves or a relative/immediate family member or member of household in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

E. Waiver. The above provisions of this section may be waived by the Board of Ethics upon a finding that an appropriator, negotiating or contracting person on behalf of the County had no direct involvement with the selection of the contractor or that the involvement was limited to issuing an approval of or appropriation for a recommended contractor that the approver or appropriator was not otherwise involved with the selection of. The person seeking the waiver shall demonstrate their entitlement to it by clear and convincing evidence to the Board of Ethics.

F. Two Year Prohibition of appearances before county boards/agencies for financial gain. Unless requested in writing by the County Executive or Chairperson of the Legislature, a County officer or employee shall not, after the termination of service or employment with the County, appear for financial gain before any board or agency of the County in relation to any case for a period of two years and shall not appear for financial gain at any time in any proceeding or application in which he/she personally participated, except in a ministerial way, during the period of his/her service or employment or which was under his/her active consideration.

G. Action by Board of Ethics Against Former Employee. The Board of Ethics provided by this Local Law has the authority to act against any former County officer or employee and levy fines or make referrals as if such County officer or employee were still a County officer or employee during the two year period provided for herein, provided the said Board of Ethics shall have commenced (on notice to such former employee or officer) their review or investigation of the transaction giving rise to the investigation or transaction within two years of such officer or employee's ceasing to be an Orange County Officer or Employee.

## **Section 11. Judicial Review.**

Any person aggrieved by a recommendation of the Board of Ethics, as implemented by the County, may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

## **Section 12. Training.**

The Department of Human Resources with the assistance of the Ethics Board shall provide training to all officers or employees of Orange County. Such training may consist of written and/or audio or video presentations or the dissemination of written materials. The training shall provide illustrative, but non-exclusive examples in relation to acceptable and unacceptable gifts and when a county employee shall be required to notify someone of a conflict or potential conflict.

### **Section 13. Supersession of State Law.**

Whenever the requirements of this Local Law are inconsistent with the provisions of Article 18 of the General Municipal Law, the more restrictive provisions or those imposing higher standards shall govern.

### **Section 14. Construal of Provisions.**

A. No existing right or remedy shall be lost, impaired, or affected by reason of this Local Law.

B. 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/herself or any member of his/her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. 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 15. Distribution and Posting.**

A. Within 90 days after the adoption of this Local Law and thereafter as appropriate, the Board of Ethics shall transmit to the Orange County Legislature and Clerk of the Legislature, in a form suitable for posting, copies of those provisions of this Local Law which the Board of Ethics deems necessary for posting in the County of Orange. Within 30 days after receipt of those copies, the Clerk of the Legislature shall cause the copies to be posted conspicuously where public notices are generally posted.

B. Within 90 days after the effective date of this Local Law and thereafter as appropriate, the Board of Ethics shall transmit to the Clerk of the Legislature, in a form suitable for distribution, copies of those provisions of this Local Law which the Board of Ethics deems necessary for distribution to the officers and employees of the County. Within 30 days after receipt of those copies, the Clerk of the Legislature, with the assistance of the Commissioner of the Department of Human Resources 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 upon entering upon the duties of his/her position.

C. 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 those 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.

### **Section 16. Severability.**

The provisions of this Local Law shall be severable, and if any clause, sentence, paragraph, subdivision or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 17. Effective Date.** This act shall take effect January 1, 2016 except sections 16 and 17 shall take effect upon filing with the Secretary of State.

APPENDIX A: LIST OF COUNTY OFFICERS AND EMPLOYEES SUBJECT TO DISCLOSURE

APPENDIX B: ANNUAL DISCLOSURE FORM

APPENDIX C: REGULATIONS FOR ADJUDICATORY PROCEEDINGS

APPENDIX D: LIST OF COUNTY OFFICERS AND EMPLOYEES PROHIBITED FROM PURCHASING  
COUNTY DEED SALE PARCELS

ENACTED BY THE FOLLOWING VOTE:

Ayes 20; Noes 0; Absent 1  
(Absent: Amo)

Filed with Secretary of State: November 16, 2015

Effective: November 16, 2015

## **LOCAL LAW NO. 6 OF 2015**

### **A LOCAL LAW RELATING TO THE SALE OF CERTAIN COUNTY REAL PROPERTY FORMERLY KNOWN AS YMCA THE BUILDING AUTHORIZING CONSIDERATION OF OFFERS OTHER THAN IN RESPONSE TO ADVERTISEMENT; AND AUTHORIZING THE SALE TO OTHER THAN THE HIGHEST RESPONSIBLE BIDDER.**

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

#### **SECTION ONE. Legislative Declaration and Purpose**

(A) The purposes of this Local Law are: 1) to effectuate the sale of certain real property, buildings and related improvements located thereon, owned by the County of Orange, known and referred to as "a portion of 54 Grand Street, Newburgh, NY" ( a portion of Section 31, Block 2, Lot 13.2; +/- .962 acres) located in the City of Newburgh, and more particularly described in Schedule "A" attached hereto ("the Property"); 2) to preserve and protect the interests of the residents of the County and the said City and ensure to the maximum extent that the development of the Property occurs in a responsible manner consistent with the needs and goals of the community and the County and; 3) to supersede that provision of the New York State County Law Section 215(6) that provides that property not needed for County purposes be sold only to the highest responsible bidder after advertisement; and 4) to retain an easement to ensure access to a parking area which the County shall, unless otherwise provided for at a future date, and retain ownership of approximately .28 +/- acres.

(B) The effect of this enactment will be to allow the sale of the property and for the property to be sold at fair market value to NYSARC, Inc., Orange County Chapter, with an address at 249 Broadway, Newburgh, NY 12550, for an amount not less than One million three hundred thousand (\$1,300,000) dollars.

(C) It is hereby declared that the Property is surplus property no longer necessary for public use and accordingly may be sold as otherwise described herein.

#### **SECTION TWO. Sale to Highest Bidder After Advertisement Not Required**

The Property shall be sold for fair and adequate consideration to The Arc of Orange County NYS ARC, Inc. (hereinafter "The Purchaser") for an amount not less than one million three hundred thousand (\$1,300,000.00) dollars.

#### **SECTION THREE. Easements**

The Property shall be sold upon the condition that the County shall retain a permanent easement to access to parking for use of the County behind The Property. Such Easement shall be in a size and at one or more locations approved by the Director of Real Property Services.

#### **SECTION FOUR. Authorizations to Execute Documents**

The County Executive is authorized to execute such documents as are necessary to effectuate this transfer of The Property and retention of the easement(s) as described in Sections one and two

and three of this Local Law. The Commissioner of Finance and Director of the Office of Real Property are authorized to execute such documents as are necessary to effectuate the purposes of this law and to cause such filings as are required to be made to be made.

**SECTION FIVE. Supercedure of New York State County Law Section 215(6)**

This Local Law shall supersede New York State County Law Section 215(6) to the extent that it is inconsistent therewith.

**SECTION SIX. Effective Date**

This Local Law shall take effect as provided by the New York State Municipal Home Rule Law and upon the completion of the requisite filings and procedures.

**DATED: DECEMBER 3, 2015**

ENACTED BY THE FOLLOWING VOTE:  
Ayes 20; Noes 0; Abstention 1  
(Abstained: DiSalvo)

Filed with the Secretary of State: 1/19/16

Effective: 1/19/16

