

# 2017 LOCAL LAWS OF ORANGE COUNTY

## LOCAL LAW NO. 1 OF 2017

### 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." This local law amends and restates Local Law No. 5 of 2015.

B. Purpose: Officers and employees of the County of Orange hold their positions to serve and benefit the public and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The County of Orange recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct.

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 for compensation or *pro bono*,<sup>1</sup> other than those involving ministerial acts.

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<sup>1</sup> "Pro Bono" shall mean : professional services rendered for the public good or on behalf of those who cannot afford them for little or no compensation.

**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.

**CHILD:** means any son, daughter, stepson, stepdaughter of a county officer or employee.

**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 have 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, 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. "Interest" does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the County of Orange, any political subdivision of the County of Orange, or a lawful class of such residents or taxpayers. "Interest" does not include any benefits or entitlements that are procured for the benefit of

county employees or officers. (For example, union membership, health insurance, vision and dental benefits, deferred compensation, disability benefits (please note, this list is not exclusive)).

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.

**INVESTMENT:** means an expenditure to acquire property or other assets in order to produce revenue or for financial gain; the placing of capital or laying out of money in a way intended to secure income or profit from its employment.

**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.

**POLITICAL "PARTY":** shall have the same meaning as contained in § 1-104 of the N.Y.S. Election Law.<sup>2</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 actually 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 that permits or disallows a contract or expenditure under this Local Law.

**RELATIVE/IMMEDIATE FAMILY MEMBER/MEMBER OF HOUSEHOLD:** shall include 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>3</sup>

**SIBLING:** means any brother, sister, half-brother or half-sister, stepbrother or stepsister of a county officer or employee.

**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:** means any son, daughter, stepson or stepdaughter of a county officer or employee, under age eighteen, unmarried and living in the household of the reporting individual.

### **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.**

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<sup>2</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>3</sup> Derived from Social Services Law Section 481-c Definitions Para. 2

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>4</sup>, Removal.
1. Appointment and Confirmation. The Board of Ethics shall consist of seven members, appointed by the County Executive<sup>5</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 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

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<sup>4</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>5</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....".

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>6</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>7</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 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.

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

<sup>7</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.

- 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>8</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>9</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.
- 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

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<sup>8</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>9</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.

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.

- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.



- i. **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.
- j. **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.

**(3) 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.

**(4) Regulations For Adjudicatory Proceedings and Appeals.** 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.

**(5) Appointment of Hearing Officers.** 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.

**(6) 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.

**(7) 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.

(8) **Waiver.**

- a. A County officer or employee may apply for a waiver request from any of the standards set forth herein upon a showing of compelling need, except as set forth herein in subdivision b.
- b. **NO WAIVER SHALL BE GRANTED FROM THE FILING OF THE ANNUAL DISCLOSURE STATEMENT.**
- c. The Board of Ethics shall acknowledge receipt of the waiver request within 5 business days of said receipt. The Board of Ethics shall endeavor to render its decision to grant or deny the waiver within ten business days from the date in which the Board of Ethics determines that it has received sufficient information to render its decision. ***The Board of Ethics may grant a waiver of all or of part of any such request.*** The request for a waiver shall be deemed abandoned if the county officer or employee fails to provide such information within the time frames established by the Board of Ethics.
- d. A waiver request form will be available from the Secretary of the Ethics Board.

- (9) **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 *or indirect pecuniary or material 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) Whenever a county officer or employee is required to recuse himself or herself under this Ethics Law, he or she shall:

- (i) Promptly inform his or her immediate supervisor in writing;
- (ii) Promptly file with the Board of Ethics a signed statement disclosing the nature and extent of the conflict which forms the basis for recusal; and
- (iii) Immediately refrain from participating further in the particular matter.

**C. Representation.** No county officer or employee shall appear as attorney or counsel against the interest of the County in any litigation in which the County is a party, or in any action or proceeding in which the County, or any other county officer or employee, acting in the course of official duties, is a complainant. **This section shall not prohibit a county officer or employee from representing themselves in any action against the County of Orange.** This section shall not apply to an elected official representing himself or herself, in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of his or her capacity as an elected official. This section shall not apply to an elected official who represents himself or herself in an election law matter. For county officers who are not county employees, this prohibition shall apply only to the department or agency served by the county officer.

**D. Appearances.** A county 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. A county officer shall not appear before the department or agency served by the county officer 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 thereof.

**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) Definition of "relative/immediate family member" expanded for Anti-Nepotism. 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>10</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 from the same individual or entity**, 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>11</sup>

(2) The term "gift"<sup>12</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;

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<sup>10</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.

11. 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)

<sup>12</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.

- (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;
- (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~~ twenty (\$20.00) dollars or less and in no event shall the total value of such food or beverage exceed seventy-five (\$75.00) in any twelve month consecutive period from the same individual or entity; 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>13</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>14</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 or his/her designee 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 with any county contractor for themselves, their spouse, child member of the household 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).

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<sup>13</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>14</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. **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 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.

N. **Use of Official Name, Seal and Authority of the County of Orange.** No County officer or employee shall do any act or cause any act to be done which is a violation of the Orange County Local Law regulating the use of the official name, seal and authority of the County of Orange.<sup>15</sup>

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<sup>15</sup> See, Local Law No. 11 of 1999.



## 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>16</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>17</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.

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<sup>16</sup> See, Local Law Section 14, "Supersession of State Law."

<sup>17</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>18</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>19</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>20</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. The annual disclosure statement as provided for in and in conformity with § 811 or other applicable provisions of General Municipal Law. The Board of Ethics shall have the power and authority to promulgate and amend the waiver request form from time to time and provide a copy of same to the Orange County Legislature. All such forms shall be posted on the Board of Ethics webpage.

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

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<sup>18</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>19</sup> Derived from N.Y.S. Public Officer's Law Section 73 1. (K)

<sup>20</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).

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.

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>21</sup> Ethics disclosure forms of county elected officials (County Executive, District Attorney, Sheriff, County Clerk and Legislators) shall be posted on the Orange County Board of Ethics 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, the signature of the filer and notary and 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

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<sup>21</sup> Pursuant to recommendation of Grand Jury Report, recommendation # 4. This footnote not intended to be printed in local law.

consulted by the Ethics Board in making a determination relating to portions of forms (or entire forms) not to be published.

M. Whenever the Board produces a financial disclosure statement for public inspection, the Board shall notify the person who filed the report of the production and of the identity of the person to whom such statement was produced.

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

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. Future Employment<sup>22</sup>.**

Employment Solicitation<sup>23</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.

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<sup>22</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>23</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.

A. Six Month Restriction for 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 while the matter is pending or within 180 days following the final disposition of the matter. Appropriating funds for the effectuating of a contract shall relate to a specific matter, not voting generally on the annual County budget.<sup>24</sup>

B. Two Year Restriction. Unless requested in writing by the County Executive or Chairman of the Orange County Legislature, 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 agency for which he or she serves. The exercise of discretion does not relate to ministerial matters.

C. Waiver. The above provisions of this section may be waived by the Board of Ethics upon a finding that:

- i. An appropriating, 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; or
- ii. The restrictions set forth in this Section 10 would create a financial hardship for the county officer or employer.
- iii. The person seeking the waiver shall demonstrate their entitlement to it by clear and convincing evidence presented to the Board of Ethics.

D. 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.**

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<sup>24</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.

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 (including employees' rights provided for in collective bargaining agreements) 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 February 1, 2017 except sections 15 and 16 shall take effect upon filing with the Secretary of State.

APPENDIX A: LIST OF COUNTY OFFICERS AND EMPLOYEES SUBJECT TO DISCLOSURE (no change in this document. Appendix A revised by Resolution No. 303 of 2015, as may be amended by resolution from time to time.)

APPENDIX B: ANNUAL DISCLOSURE FORM (Revised as attached)

APPENDIX C: REGULATIONS FOR ADJUDICATORY PROCEEDINGS (no change)

APPENDIX D: LIST OF COUNTY OFFICERS AND EMPLOYEES PROHIBITED FROM PURCHASING COUNTY DEED SALE PARCELS (no change)

ENACTED BY THE FOLLOWING VOTE:  
Ayes 21; Noes 0

Filed with the Secretary of State: 1/25/17

Effective: 2/1/17

## **LOCAL LAW NO. 2 OF 2017**

### **A LOCAL LAW TO RAISE THE LEGAL AGE FOR PURCHASE OF TOBACCO PRODUCTS IN ORANGE COUNTY, NEW YORK, TO 21.**

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

#### **Section 1. Legislative Findings and Intent is to**

- a) further the goals of New York State's tobacco use prevention control program, as identified in New York State Public Health Law §1399-ij; and
- b) respond to statistics that reveal that tobacco is the leading cause of preventable death and disease in New York State.

#### **Section 2. Definitions**

- a) "Tobacco products means cigarettes, cigars, chewing tobacco, powdered tobacco, shisha, bidis, gutka, other tobacco products, nicotine water, herbal

cigarettes, electronic cigarettes, liquid nicotine and all other products which are prohibited from being sold to minors by New York State Public Health Law Article 13-F, as the same may be amended from time to time;

- b) "Bidis" means a product containing tobacco that is wrapped in Temburni leaf (*diospyros melanoxylon*) or tendra leaf (*diospyros exculpra*), or any other product offered to consumers as "beedies" or "bidis";
- c) "Electronic cigarette" means an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such device;
- d) Paraphernalia shall include: snuff, rolling papers and smoking paraphernalia, as those terms are defined in New York State Public Health Law Article 13-F and, when not so defined, as commonly understood to be defined; and

### **Section 3. Tobacco-Prohibited Sale; Businesses Selling Tobacco Products and Paraphernalia**

Any person operating a place of business wherein cigarettes, tobacco products, liquid nicotine, or electronic cigarettes are sold or offered for sale is prohibited from selling such cigarettes, tobacco products, liquid nicotine, or electronic cigarettes to individuals who are under twenty-one (21) years of age.

### **Section 4. Prohibited Sales; Businesses Selling Non-Tobacco Paraphernalia**

Any person operating a place of business wherein non-tobacco shisha, pipes, or rolling papers are sold or are offered for sale is prohibited from selling such non-tobacco shisha, pipes or rolling papers to individuals who are under twenty-one (21) years of age.

### **Section 5. Identification Requirements**

**The identification requirements contained in New York State Public Health Law Article 13-F Section 1399-cc (3), as the same may be amended from time to time, are hereby incorporated into this local law by reference, except that the age to be proven by such identification shall be twenty-one (21).**

### **Section 6. Posting of Signs**

Any person operating a place of business wherein cigarettes, tobacco products, liquid nicotine, electronic cigarettes, herbal cigarettes, non-tobacco shisha, pipes or rolling papers are sold or offered for sale shall post in a conspicuous place, a sign, in accordance with the rules of the Orange County Health Department, advising persons about the minimum age requirements for the purchase of such items.

### **Section 7. Penalties**



Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Commissioner of the Orange County Department of Health of a minimum of \$300.00, but not to exceed \$1,000.00 for a first violation, and a minimum of \$500.00, but not to exceed \$1,500.00 for each subsequent violation.

For purposes of enforcing the ban on the sale of tobacco products and or herbal cigarettes to minors other than by a vending machine, a sale shall be made only to an individual who demonstrates that he/she is at least twenty-one (21) years of age and has demonstrated such in accordance with the requirements set forth hereinabove.

### **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. Reverse Preemption**

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as contained in this law, or in the event that a pertinent State or Federal Administrative Agency issues and promulgates regulations preempting such action by the County of Orange. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposed of triggering the provisions in this section.

### **Section 10. Effective Date**

This local law shall take effect on June 1, 2017.

ENACTED BY THE FOLLOWING VOTE:

Ayes 19; Noes 0; Absent 2  
(Absent: Bonelli, Faggione)

Filed with the Secretary of State: 2/6/17

Effective: 6/1/17

## **LOCAL LAW NO. 3 OF 2017**

**A LOCAL LAW APPROVING AMENDMENTS TO THE ORANGE COUNTY SANITARY CODE, (PROVIDING UPDATES AND ADDING A NEW ARTICLE III "HOUSING HYGIENE AND PROPERTY MAINTENANCE"), PURSUANT TO SECTION 7.05 OF THE ORANGE COUNTY ADMINISTRATIVE CODE.**

### **Section 1. Purpose.**

The Orange County Board of Health has presented to this Legislature proposed updates and an amendment to the Orange County Sanitary Code which includes the addition of a new Article III regulating "Housing Hygiene and Property Maintenance" to be incorporated in said Sanitary Code.

## **Section 2. Amendments.**

The amendments are set forth in the annexed schedule "A"; and

## **Section 3. Committee Recommendations.**

The Legislature's Committee on Health and Mental Health and Rules, Enactments and Intergovernmental Relations recommends the adoption of said updates and amendments to the Sanitary Code in accordance with Section 7.05 of the Orange County Administrative Code (Local Law No. 10 of 1969 as amended by Local Law No 3. of 1981).

## **Section 4. Approval of amendments.**

The aforementioned proposed amendments to the Orange County Sanitary Code annexed hereto as a Schedule "A" is hereby approved.

## **Section 5. Effective Date.**

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

ENACTED BY THE FOLLOWING VOTE:

Ayes 17; Noes 4

(Noes: Turnbull, Cheney, Ruszkiewicz, Vero)

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## **SCHEDULE "A"**

### **ORANGE COUNTY SANITARY CODE OF 2016**

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#### ARTICLE I: GENERAL PROVISIONS

##### SECTION 1. SHORT TITLE.

1. The rules and regulations herein contained shall constitute and comprise the sanitary code of the County of Orange and shall be known and may be cited as the Orange County Sanitary Code. In any proceeding under, or involving this code or any provision thereof, the code may be referred to by its plenary title, Sanitary Code of the County of Orange.

##### SECTION 2. GENERAL DEFINITIONS.

1. Whenever used in this code, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

- a. **BOARD** The term "board" means Board of Health of the County of Orange.
- b. **CHARTER** The term "charter" means the Charter of the County of Orange.
- c. **CODE** The term "code" means the Orange County Health Code or the Sanitary Code of the County of Orange.
- d. **COMMUNICABLE DISEASE** The term "communicable disease" means infectious, contagious or communicable disease.
- e. **COUNTY** The term "County" means the County of Orange.
- f. **COMMISSIONER** The term "commissioner" means the Commissioner of Health of the County of Orange.
- g. **DEPARTMENT** The term "department" means the Department of Health of the County of Orange.
- h. **HEALTH DISTRICT** The term "health district" means the Orange County Health District comprising the entire area of the County of Orange established under Section 340 et seq., of the Public Health Law and the Orange County Charter.
- i. **PERMIT** The term "permit" means a written license and authorization to carry on a specified activity or activities as regulated by this code, the state sanitary code or the public health law, and includes a certificate of approval.
- j. **PERMITTEE** The term "permittee" means a person who holds a valid permit issued by the Commissioner or the State Department of Health.
- k. **PERSON** The term "person" means any individual, firm, corporation, association, partnership, institution, public body, joint stock association or any other group of individuals, and includes the plural as well as the singular.
- l. **PUBLIC HEALTH COUNCIL** The term "Public Health Council" means the Public Health Council of the State of New York, now known as the "Public Health and Health Planning Council."<sup>25</sup>

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<sup>25</sup> In December 2010, Governor Cuomo established the Public Health and Health Planning Council (PHHPC), to enhance the former Public Health Council. The powers and duties of the PHHPC are set forth in Section 224-b and 225, as well as Articles 28, 36 and 40 of the Public Health Law. The PHHPC is empowered to adopt and amend sanitary regulations as well as

m. **PUBLIC PLACE** The term "public place" means any place or premises wherein the general public is or may be an invitee, regardless of whether of not such place is owned, maintained or operated by any private or government organization or agency.

n. **MUNICIPALITY** The term "municipality" means a city, town or village located within the County of Orange.

o. **STATE** The term "state" means the State of New York.

p. **STATE SANITARY CODE** The term "State Sanitary Code" means the rules and regulations promulgated by the Public Health Council of the State of New York and designated as the State Sanitary Code.

### **SECTION 3. APPLICABILITY AND LEGAL EFFECT.**

1. The provisions of the code shall be in force throughout the County of Orange.
2. The code shall be supplemental to the Public Health Law, the State Sanitary Code and other State laws relating to the public health.
3. As provided by the Charter and the Public Health Law, the provisions of this code shall have the force and effect of law.

### **SECTION 4. LEGAL PRESUMPTIONS; EVIDENCE; REPORTS AS EVIDENCE.**

1. Health Law, Certified copies of the code shall be received in evidence in all courts and proceedings in the State.
2. The written reports of the state and local health officers, inspectors, investigators, nurses and other representatives of the state and local health officers on questions of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, actions, authority and orders, related to the enforcement of this code, the Public Health Law, the State Sanitary Code or any local health regulation shall be presumptive evidence of the facts so stated therein, and shall be received as such in all courts and places.

### **SECTION 5. CONSTRUCTION.**

1. This Code is intended to be consistent with the applicable federal and state law and shall be construed, whenever necessary, to achieve such consistency.
2. This Code shall be liberally construed for the protection of health and safety in the county.
3. This Code is intended to supplement the State Sanitary Code and the Public Health Law, and wherever applicable, shall be deemed to be incorporated herein.

### **SECTION 6. SEPARABILITY OF PROVISIONS.**

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regulations relating to health care facilities, hospice services, and home care agency public need, establishment, reimbursement, operating standards and structural standards. The PHHPC is also empowered to hear complaints by licensed professionals who have their hospital privileges terminated, suspended, or denied.

1. In the event that any provision of this Code is declared unconstitutional or invalid, or the application thereof to any person or circumstances is held invalid, the applicability of such provision to other persons and circumstances and the constitutionality or validity of every other provision of the Code shall not be affected thereby.

#### **SECTION 7. SAVING CLAUSE.**

1. Nothing contained in this Code shall affect or impair any act done or right accruing, accrued or acquired, or any penalty, forfeiture or punishment incurred prior to the time when this act shall take effect, under or by virtue of the provision or provisions of law or the State Sanitary Code.

2. Any subsequent addition or modification to the Code shall be deemed and construed as having been added to such Code and shall be given full effect according to its context as if the same had been added expressly and in terms of such Code and shall be deemed and construed to have been inserted in such Code at the appropriate respective position in regard to and as modifying the effect of the correcting provision or provisions of such Code as herein attached and promulgated.

3. This Code shall not affect pending actions or proceedings, civil or criminal, but the same may be prosecuted or defended in the same manner and with the same effect as though this Code had not been passed.

#### **SECTION 8. FEES: COPYING RECORDS AND CERTIFIED COPIES OF CODE.**

1. Fees for copying records and supplying transcripts shall be at the rate covering such cost.

2. The commissioner or his deputy shall furnish certified copies of the code and its amendments for a fee of one dollar per document requested.

#### **SECTION 9. THE TIME OF TAKING EFFECT.**

1. This code shall take effect the 31<sup>st</sup> day of October, 2017, subject to the approval of the Orange County Board of Health.

### **ARTICLE II: ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 1. THE BOARD OF HEALTH; APPOINTMENT; POWERS AND DUTIES.**

1. The Board of Health shall be appointed as provided for in the Orange County Administrative Code for the terms provided in the Public Health Law.

2. The Board of Health, subject to the provisions of the Public Health Law and the State Sanitary Code, shall: (a) formulate, adopt, promulgate, amend or repeal such rules and regulations as may affect public health within the County and (2), adopt, promulgate, amend or repeal the County Sanitary Code,<sup>26</sup> consider matters relating to the preservation and improvement of public health within the County and advise the Commissioner thereon either at his request or upon its own initiative, and from time to time make recommendations to the Commissioner thereupon.

3. No provision of the County Sanitary Code promulgated hereunder shall be effective until the same is enacted by local law.

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<sup>26</sup> See Orange County Administrative Code Section 7-5, as amended by Local Law No. 3 of 1981.

“No provision of the County Sanitary Code promulgated hereunder shall be effective until the same is approved by the County Legislature.”

## **SECTION 2. THE COMMISSIONER; GENERAL POWERS.**

1. Except as may otherwise be provided in the County Charter and the Administrative Code of the County, the Commissioner shall have all the powers and perform all of the duties now or hereafter conferred or imposed by law upon him, a county commissioner of health or a county board of health, including but not limited to:
  - a. supervise the County Public Health nurses and the County T.B. Clinic;
  - b. make an annual sanitary survey and maintain sanitary supervision over the territory within the health district;
  - c. make a sanitary inspection periodically of all places of public assemblage, and report thereon to those responsible for the maintenance of such places of public assemblage;
  - d. promote the spread of information as to the cause, nature and prevention of prevalent diseases, and the preservation and improvement of health;
  - e. take such steps as may be necessary to secure prompt and full reports by physicians of reportable diseases;
  - f. take such steps as may be necessary to secure prompt and complete registration of births and deaths;
  - g. attend conferences called by the State Commissioner of Health or his authorized representative;
  - h. enforce within the health district the provisions of the Public Health Law, State Sanitary Code, and this code.
2. Whenever the commissioner is empowered to or charged with the responsibility to do or perform any act, he shall deputize any officer or employee in the department to do or perform the act in his place and stead.

## **SECTION 3. THE COMMISSIONER; QUASI-JUDICIAL POWERS.**

1. As provided by the Public Health Law, the commissioner may:
  - a. issue subpoenas which shall be regulated by the Civil Practice Law and Rules;
  - b. compel the attendance of witnesses;
  - c. administer oaths to witnesses and compel them to testify;
  - d. designate a representative to sign and issue such subpoenas;
  - e. issue warrants to any peace officer of the municipality to apprehend and remove such person or persons as cannot otherwise be subjected to his orders or regulations, and to the sheriff of the county to bring to his aid the power of the county whenever it shall be necessary to do so;
  - f. prescribe and impose penalties for the violation of, or failure to comply with any of these orders or regulations, or any of the provisions of the State Sanitary Code or this code;
  - g. make without publication thereof, such orders and regulations for the suppression of nuisances and concerning all other matters in his judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or upon which may exist the cause of other nuisances to other premises, or cause the same to be conspicuously posted thereon;
  - h. maintain actions in any court of competent jurisdiction to restrain by injunction violators of his orders and orders, rules and regulations of the board, or otherwise to enforce such orders and regulations;



i. prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the regulations of the State Sanitary Code, not exceeding two thousand dollars for a single violation or failure to be sued for and recovered by it and the municipality.

#### **SECTION 4. INSPECTIONS; IN GENERAL.**

1. The representatives of the department may inspect any premises, matter or thing within its jurisdiction in accordance with the provisions of the Public Health Law.

#### **SECTION 5. INSPECTIONS; INTERFERENCE.**

1. No person shall interfere with, obstruct or refuse to allow any employee or authorized representative of the department to enter upon and inspect any premises or place within the jurisdiction of the department, in the discharge of his official duties or department business.

2. No person shall interfere with, obstruct or refuse to allow the examination of any occupant of any premises or place by the authorized employee or representative of the department, in the discharge of his official duties.

3. No person shall molest or resist any representative of the department in the discharge of his official duties.

#### **SECTION 6. INVESTIGATIONS; FORMAL HEARINGS.**

1. Except in cases of emergency as set forth in Section 9, subdivision 1, the Commissioner shall cause a formal hearing to be held on any application, complaint, circumstances, or alleged violation of the health laws and regulations under his jurisdiction prior to issuing any determination or order based upon any violation of this Code, the Public Health Law of the State of New York, or the New York State Sanitary Code.

2. Such formal hearing shall be on 15 days notice to the person or persons concerned, as the circumstances may require, and shall be set down for a day certain.

3. The notice of the hearing shall set forth:

a. the time and place of the hearing;

b. the purpose of the hearing;

c. charges and violations complained of, if any, with specific reference to the provisions and sections of the Public Health Law, State Sanitary Code and this code involved;

d. the right to present evidence;

e. the right to examine and cross-examine witnesses;

f. the right to be represented by council.

4. Service of Notice of hearing and statement of charges, if any, shall be served at least 15 days prior to the date of the hearing and shall be by certified mail.

5. On the return day of the hearing, the commissioner or his authorized representative shall note the appearance of the persons attending the hearing.

a. witnesses shall be sworn and testimony shall be recorded.

b. the testimony shall be transcribed within a reasonable time after the conclusion of the hearing.

c. The commissioner, or his authorized representative shall thereafter prepare findings of facts and conclusions, upon which the commissioner shall make a determination and decision, which shall be set forth in a formal order, setting forth the determination conditions, if any, to be complied with, and penalties, if any.

d. The order provided for in subdivision 4 of this section shall be filed in the department and a copy thereof shall be served on all persons concerned.

6. Nothing herein contained shall preclude the department from taking any action other than the formal hearing herein provided for, as may be prescribed by law; nor shall the department be precluded from taking such other action by virtue of the order made pursuant to this section.

#### **SECTION 6a. NOTICE TO MUNICIPAL OFFICIALS.**

1. Except in the case of an emergency as determined by the County Executive or the Commissioner of Health, the Commissioner shall, prior to scheduling a hearing with respect to property alleged to be in violation of this code, give notice of the substance of the alleged violation(s) to the appropriate City, Town or Village official who is charged with enforcing the building code in the municipality where the property is located.

2. Thereafter, at the request of the local official, the Commissioner may stay the enforcement action pending good faith efforts by such local official to ensure compliance with any applicable law, code, rule, or regulation capable of being enforced by such official.

3. The unintentional failure to provide notice to the appropriate person shall not be a bar to otherwise enforcing the provisions of this code. Further, no such notice shall be required under any circumstance with respect to allegations of any violation of this code whose provisions existed in substantively similar areas prior to July 1st, 2017.

#### **SECTION 7. FORMAL HEARING; PROCEDURE.**

1. The commissioner or person authorized by him to take testimony shall not be bound by the rules of evidence in the conduct of a hearing, but the determination shall be founded upon sufficient legal evidence to sustain it.

2. Upon the conclusion of a hearing, the commissioner shall take such action upon such findings and determinations as he deems proper, and shall execute a written order carrying such findings and determinations into effect.

3. The action of the commissioner may include the assessment of penalties as provided by law or this code.

4. An order of suspension or revocation of any permit or license may contain such provisions as to the renewal or reinstatement as the commissioner shall direct.

5. The commissioner may direct a rehearing or require the taking of additional evidence, and may rescind or affirm a prior determination after such hearing.

6. The minutes of a formal hearing shall be made available to all parties for examination at the office of the department. Copies of the minutes may be purchased at the rate per page covering the cost thereof.

#### **SECTION 8. POST HEARING PROCEDURES.**

1. The commissioner shall cause to be served upon the person or persons concerned a copy of findings of fact, conclusions and order made as a result of a formal hearing.

#### **SECTION 9. EMERGENCY PROCEDURE.**

1. Notwithstanding any other provision of this code, if the commissioner finds that any person is causing or contributing to a condition which creates an emergency which requires immediate action to protect the public health or safety, he shall order such person to discontinue immediately the condition or hazard and such order shall be complied with immediately.

2. Upon issuance of any such order, the commissioner, if requested in writing by the person so ordered, shall fix a time and place for a hearing in accordance with the procedures set forth in this article. Not more than twenty-four hours after the conclusion of such a hearing, and without adjournment thereof, the order shall be affirmed, modified or set aside.

#### **SECTION 10. VARIANCES.**

1. The commissioner may grant a variance from a specific provision of this code in a particular case on written application subject to appropriate conditions to be prescribed by him where such variance is in harmony with the general purpose and intent of this code.

#### **SECTION 11. ENFORCEMENT; VIOLATIONS; CRIMINAL PENALTIES.**

1. As provided by the Public Health Law, the provisions of the State Sanitary Code shall have the force and effect of law and the non-compliance or non-conformance of any provision thereof shall constitute a violation in accordance with the provisions of the penal law of the State of New York punishable on conviction of a first offense by a fine not exceeding two hundred fifty dollars or by imprisonment for not exceeding fifteen days or both; and for a second or subsequent offense by a fine not exceeding five hundred dollars or by imprisonment for not exceeding fifteen days or both.

2. As provided by the Public Health Law, non-compliance or non-conformance with any provisions of this Code or any rule, regulation, order or special direction duly made thereunder shall constitute a violation punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; and for a second or subsequent offense by a fine not exceeding five hundred dollars or by imprisonment for not exceeding fifteen days or both.

#### **SECTION 12. ENFORCEMENT; VIOLATIONS; CIVIL PENALTIES.**

1. As provided by the Public Health Law, any person who violates, disobeys or disregards the terms of any lawful notice, order or regulation, prescribed by the State Commissioner of Health or the State Sanitary Code, for which a civil penalty is not otherwise prescribed by law, shall be liable to the people of the State for a civil penalty of not to exceed two thousand dollars for every such violation.
2. Any person who violates, disobeys, or disregards the terms of any lawful notice, order or regulation of the State Sanitary Code or this code, or the State Commissioner of Health or the Commissioner shall be subject to the imposition of a civil penalty by the Commissioner, not exceeding two thousand dollars for a single violation or failure or omission to act.
3. The penalty provided for by subdivision 1 of this section may be recovered by an action brought by the State Commissioner of Health in any court of competent jurisdiction.
4. The penalty provided for by subdivision 2 of this section may be sued for and recovered by the Commissioner.
5. Penalties recovered by the Commissioner under subdivision two of this section may be added to the annual County property tax assessment for the property where the violation occurred.
6. Nothing in this section contained shall be construed to alter or repeal any existing provision of the law declaring such violations or any of them to be misdemeanors or felonies or prescribing the penalty therefor.
7. Each day on which such violations or failure continues shall constitute a separate offense.

#### **SECTION 13. ENFORCEMENT; VIOLATIONS; OTHER THAN BY PROSECUTION.**

1. In lieu of enforcement of this Code by way of prosecution, recovery of civil penalties, revocation of permits, seizure, embargo and condemnation, and other compulsory means, the department, by its duly authorized representative, may seek to obtain the voluntary compliance with this Code by way of notice, warning or other educational means.
2. This section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

#### **SECTION 14. ENFORCEMENT; VIOLATIONS; REMEDIATION.**

1. Upon a finding after a hearing held under Section 7 of this article, that the owner, occupant and/or operator of a building, structure and or premises is in violation of this Code, the Commissioner may, in addition to any other

remedy allowed by this code, issue an order directing that remedial action be taken to bring the building, structure or premises into compliance, and may assess the cost of such remedial action against the land upon which such building, structure or premises is located, as a municipal lien, or cause such costs to be added to the tax rolls as an assessment or to be levied as a special tax against the land upon which such building, structure or premises is located or the Commissioner may also apply for a judgment in a court of competent jurisdiction against the owner, occupant and/or operator for such costs.

## **ARTICLE III: HOUSING HYGIENE AND PROPERTY MAINTENANCE**

### **SECTION 1. GENERAL PROVISIONS**

1. **Introduction.** There exist and may in the future exist, within the County of Orange, structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, the establishment and enforcement of minimum housing, hygiene and property maintenance standards are required.

2. **Purposes.** It is hereby declared that the purpose of this Article is to protect, preserve, and promote the physical and mental health and social well-being of the people, to minimize the incidence of communicable diseases, to regulate privately and publicly owned structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by regulations which shall be applicable to all structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof now in existence or hereafter constructed. It is hereby further declared that the purpose of this Article is to insure that the quality of housing and other properties is adequate for protection of public health, safety and standards for basic equipment and facilities for healthful living, such as adequate water, waste disposal, bathroom facilities, light, ventilation, heating and cooling, for safety from fire and accidents, and for an adequate level of maintenance, setting forth the responsibilities of owners, operators and occupants of dwellings; and establishing the necessary provisions for administration and enforcement.

3. **Title.** This article shall be known and may be cited as the Orange County Sanitary Code Article III.

4. **Application and scope.** The requirements of this Article shall:

(a) Be effective after being adopted via local law, apply within Orange County.

(b) Apply to all structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof within the jurisdiction of Orange County, except those regulated under Parts 7 and 15 of the New York State Sanitary Code.

(c) Orange County Commissioner of Health may direct enforcement. Notwithstanding the limits of application and administration set forth in the preceding subdivision, the Orange County Commissioner of Health may enforce the

requirements of this Article in any area where a danger or hazard to the public health shall or is likely to exist because of housing, hygiene and/or property maintenance conditions.

(d) Construction. It is intended that the application of the provisions of this Article be consistent with the provisions of applicable State and local laws, codes, rules and regulations; provided, however, that where the provisions of this Article are more restrictive, they shall govern, and where the provisions of such applicable State or local laws, codes, rules and regulations are more restrictive, they shall govern, but the same shall not preclude the enforcement by the Orange County Commissioner of Health and as otherwise provided herein, of this local law.

(e) Variance. The Orange County Commissioner of Health may, on written application and after review, grant a variance from a specific provision of this Article in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Article, and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of its provision. Such variance, however, shall only be effective as against this local law and not against any contrary local law, rule, regulation or order otherwise authorized.

(f) Separability. If any provisions of this Article are held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions. Such variance, however, shall only be effective as against this local law and not against any contrary local law, rule, regulation or order otherwise authorized.

**5. Dwelling unfit for human habitation.** Whenever the Orange County Commissioner of Health finds that any structure, equipment, exterior property, premises, dwellings or dwelling units constitutes a serious hazard to the health and/or safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities required by this Article, he/she may designate such dwelling unfit for human habitation, order the dwelling vacated, and may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "Use of this building for human habitation is prohibited and unlawful." If the owner fails to comply with an order issued by the Orange County Commissioner of Health, the Commissioner of Health may order such dwelling to be removed or demolished as provided for by applicable County law and laws and regulations of the town, village or city having jurisdiction. The provisions of this section are applicable also to unoccupied dwellings and the owners thereof shall be chargeable with compliance. The cost of any removal, demolition or remedial action taken by the County of Orange shall be chargeable to the owner, occupant and/or operator of said property under Article II, Section 14(1).

## **6. Inspection and enforcement.**

### **(a) Inspection.**

(1) The Orange County Commissioner of Health and any person authorized by him/her to do so, may without fee or hindrance, make inspections to determine the condition of structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof and the premises on which they are located, in order to fulfill the purposes of this Article.

(2) For the purpose of making such inspections, the inspector is hereby authorized to enter, examine and survey all structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof. Except for emergencies, or where authorized by other law, or for the convenience of the occupant or owner, such inspections shall be made between the hours of 7 am and 9 pm.

(3) The owner, the operator and the occupant shall give the inspector free access to the structures, equipment, exterior property, premises, dwellings, dwelling units or parts thereof for the purpose of such an inspection.

**(b) Enforcement.**

(1) Evidence of a violation of this Article discovered during such inspection shall not be used against the violator in either a criminal or civil proceeding except under the following conditions:

(i) Written notice of said violation shall be left with or mailed to the person responsible for correction of such violation or in the alternative such notice shall be posted in a conspicuous place upon the structures, equipment, exterior property, premises, dwellings, dwelling units, or parts thereof where the violation is discovered.

(ii) Said written notice states a specific and reasonable time within which such violation shall be eliminated; and

(iii) At the end of such time the violation has not been eliminated.

(2) Noncompliance or nonconformance; Criminal and Civil Penalties.

(i) Criminal penalties for noncompliance or nonconformance with any provision of this Article shall be those provided for in Article 2(11) of the Orange County Sanitary Code.

(ii) Civil Penalties for noncompliance or nonconformance with any provision of this Article shall be those provided for in Article 2(12) of the Orange County Sanitary Code.

**(c) Warrant Requirements for Non-Emergency Inspections.**

The Fourth Amendment bars warrantless, non-emergency administrative inspection of a private residential premises without the occupant's consent. Issuance of a warrant for such inspections, however, need not be based upon reasonable cause to believe a violation exists in the premises sought to be entered, but can be based merely on the reasonableness of the need to conduct periodic, area wide inspections.

**7. Definitions.**

(a) **ACCESSORY STRUCTURE** shall mean a structure not more than three stories high with separate means of egress, a building, the use of which is incidental to that of the main building and which is located on the same lot.

(b) **ADEQUATE** shall mean sufficient to accomplish the purpose for which something is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, an activity conducted, or an act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession is adequate within the meaning of this subpart.

(c) **APPROVED** shall mean approved by the Orange County Commissioner of Health.

(d) **CENTRAL HEATING SYSTEM** shall mean a single system supplying heat to one or more dwelling unit(s).

(e) **DWELLING** shall mean any building or structure that contain one or more dwelling unit(s) or units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

(f) **DWELLING UNIT** shall mean a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(g) **EGRESS** shall mean a place or means of going safely to the outside of a dwelling or building.

(h) **EXTERIOR PROPERTY** shall mean the open space on the premises and on adjoining property under the control of owners or operators of such premises.

- (i) **EXTERMINATION** shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by application of pesticide(s), trapping or by another recognized and legal pest elimination methods approved by the local or State authority having such administrative authority.
- (j) **FAMILY** shall mean one adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person.
- (k) **ORANGE COUNTY COMMISSIONER OF HEALTH** shall mean the Health Commissioner of Orange County or his/her duly authorized representative.
- (l) **GARBAGE** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving and consumption of food.
- (m) **GUEST** shall mean any person who shares a dwelling unit in a nonpermanent status for not more than 30 days.
- (n) **HABITABLE SPACE** shall mean a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.
- (o) **HEATED WATER** shall mean water supplied to a fixture at a temperature of not less than 120°F.
- (p) **HOUSEHOLD** shall mean a family and/or one or more unrelated persons, who share the same dwelling and use some or all of its cooking and eating facilities. It shall include servants and not more than two boarders.
- (q) **INDIVIDUAL SEWERAGE SYSTEM** shall mean a system or piping, tanks or other facilities disposing of sewage or other liquid wastes into the soil.
- (r) **INFESTATION** shall mean the presence within or contiguous to a structure or premises of insects, rats, vermin or other pests.
- (s) **KITCHEN** shall mean any room used primarily for cooking or preparation of food and containing any or all of the following equipment; sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food. Where a room is used for cooking and preparation of food, but not primarily so used, kitchen shall mean that portion of such room which contains the above equipment and an area within three feet of such equipment.
- (t) **LET FOR OCCUPANCY OR LET** shall mean to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
- (u) **MEANING OF CERTAIN WORDS.** Whenever the words “Dwelling”, “dwelling unit”, “premises” and “structure” are used in this Article, they shall be construed as though they were followed by the words “or any part thereof.” Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.
- (v) **MULTIPLE DWELLING** shall mean any dwelling containing more than two dwelling units or more than four roomers.
- (w) **NOXIOUS WEED(S)** shall mean any living stage, such as seeds and reproductive parts, of any parasitic or other plant of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation, or the fish or wildlife resources of the United States or the public health.



(x) **NUISANCE (a.k.a. PUBLIC NUISANCE, PUBLIC HEALTH NUISANCE)** shall mean whatever is dangerous to human life or detrimental to health.

(y) **OCCUPANCY** shall mean the purpose for which a building or portion thereof is utilized or occupied.

(z) **OCCUPANT** shall mean any individual living or sleeping in a building, or having possession of a space within a building; except that in dwelling units a guest will not be considered an occupant. To the extent that a responsibility is imposed upon an Occupant pursuant to this Local Law, such Occupant must be age 18 or older.

(aa) **OPERATOR** shall mean any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

(bb) **OWNER** shall mean any person, firm or corporation, who, alone or jointly or severally with others:

(1) shall have legal title to or an equitable interest in any dwelling or dwelling unit, with or without accompanying actual possession thereof, or

(2) shall have charge, care, or control of any dwelling or dwelling unit, as owner, lessee, mortgagee or vendee in possession, assignee of rents, or as a receiver; or an executor, administrator, trustee, or guardian of the estate of the owner. Any agent for any of the above shall be bound to comply with the provisions of this Article to the same extent as if he were the owner.

(cc) **PERSON** shall mean an individual, heirs, executors, administrators or assigns, and also includes firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

(dd) **PLUMBING** shall mean and include all of the following supplied facilities and equipment; gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, toilet rooms, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

(ii) **PRIVACY** shall mean the ability of a person or persons to carry out an activity without interruption or interference, either by sight or sound, by persons outside of the household.

(jj) **PREMISES** shall mean a lot, plot or parcel of land, an easement or public way, including any structure thereon.

(ee) **PUBLIC WAY** shall mean a street, alley or other parcel of land open to the outside air leading to a street, that has been deeded, dedicated or otherwise permanently appropriated to the public for public use and which has a clear width and height of not less than 10 feet.

(ff) **RODENT HARBORAGE** shall mean any place where rodents can live, nest, hide or seek shelter.

(gg) **RAT PROOFING** shall mean a form of construction which will prevent the ingress or egress of rats to or from a given space or building, or gaining access to food, water or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by rat climbing, burrowing or other methods, by the use of materials impervious to rat gnawing or by other methods approved by the Orange County Commissioner of Health.

(hh) **REFUSE** shall mean all putrescible and non-putrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

(ii) **REFUSE CONTAINER** shall mean a watertight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions, or such other

containers approved by the Orange County Commissioner of Health. Openings into the container such as covers and doors shall be tight fitting.

(jj) **RUBBISH** shall mean combustible and non-combustible waste materials, except garbage; the term shall include the residue from burning wood, coal, coke and other combustible materials, paper rags, cartons, boxes, wood, excelsior, rubber, mineral matter, glass, crockery, and dust and other similar materials; this term shall also include discarded, abandoned or stored refrigerators.

(kk) **SAFETY** shall mean the condition of being reasonably free from danger and hazards which may cause accidents or disease.

(ll) **SEWERAGE SYSTEM** shall mean pipe lines or conduits, pumping stations and force mains, and all other constructions, devices and appliances appurtenant thereto, used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.

(mm) **STRUCTURE** shall mean that which is built or constructed or a portion thereof.

(nn) **SUPPLIED** shall mean paid for, furnished, provided by, or under the control of the owner or operator.

(oo) **TENANT** shall mean a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(pp) **TOILET ROOM** shall mean a room containing a water closet or urinal but not a bathtub or shower.

(qq) **WASTE** shall mean the discharge from any fixture, appliance, area or appurtenance that does not contain fecal matter.

## **SECTION 2- RESPONSIBILITIES OF OWNERS AND OCCUPANTS**

1. **Occupancy and letting.** No owner or other person shall occupy or let to another person for occupancy, any vacant structure, dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with the requirements of this Article and all applicable laws.

2. **Owner to maintain in a clean and sanitary condition.** Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition in the shared or public areas of the dwelling and premises thereof. Owner shall secure vacant buildings and/or structures by boarding, blocking, locking or otherwise protecting to prevent entry by unauthorized individuals.

3. **Occupant to maintain in a clean and sanitary condition.** Every occupant of a premises, structure, dwelling or dwelling unit shall maintain in a clean and sanitary condition those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

4. **Occupant to dispose of rubbish and garbage.**

(a) Rubbish: Every occupant of a structure, building, dwelling or dwelling unit shall store and dispose of all his rubbish in a clean, sanitary and safe manner.

(b) Garbage: Every occupant of a structure, building, dwelling or dwelling unit shall dispose of and store all his garbage or any other organic waste which might provide food for insects, rodents or any other pest, in a clean, sanitary and safe manner. Garbage shall not be allowed to accumulate. Rodent-proof, insect-proof, watertight refuse containers shall be used for storage pending collection. The lid of the refuse container shall be on the container at all times, including when at curb pending collection.

5. **Refuse Containers to be provided for rubbish and garbage.** Every owner of a premises, structure, building, or dwelling shall supply adequate facilities or refuse containers for the sanitary and safe storage and/or disposal of

rubbish and garbage, unless otherwise agreed to in writing by the lessee. Such containers shall be in proper working condition, undamaged and rodent-proof. The maintenance and upkeep of the container shall be the owners and/or occupants responsibility.

**6. Screens, Double Doors, Storm Doors and Windows.** The owner of a dwelling unit shall be responsible for providing and hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this Article, except where a written agreement between the owner and occupant provides otherwise. In the absence of a written agreement between the owner and occupant providing otherwise, maintenance or replacement of screens, storm doors and windows, once installed in any one season, become the responsibility of the occupant.

**7. Responsibility for extermination.** Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

#### **8. Rodent control**

(a) Every owner and/or occupant of a premises, structure, building, dwelling or dwelling unit shall store and dispose of accumulated rubbish, boxes, lumber, scrap metal, or any other materials in such a manner as to prevent rodent harborage in or about any premises, structure, building, dwelling or dwelling unit. Materials shall be stacked neatly in piles elevated to a level high enough to permit effective cleaning.

(b) All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

(c) Every owner or occupant of a dwelling or dwelling unit shall not store, place, or allow to accumulate, any materials that may serve as food or harborage for rodents in a site accessible to rodents.

(d) No person shall feed in the open any domestic or wild fowl, birds or animals other than in a suitable container and in such a manner so as to prevent scattering of food upon the ground or ground level which can or will provide food for rodents, insects, vermin or other pests. If an area is deemed infested with rodents, insects, vermin or other pests by the Orange County Commissioner of Health, all bird feeding shall be ceased until the area is no longer deemed infested with rodents, insects, vermin or other pests.

(e) If an area is deemed infested with rodents, insects, vermin or other pests by the Orange County Commissioner of Health, all such premises and immediate exterior property shall be maintained free from weeds or plant growth in excess of 10 inches, so as to prevent rodent harborage. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however this term shall not include cultivated flowers or gardens.

(f) Property Demolition. If a structure is scheduled for demolition, proper extermination should be performed prior to the demolition of the structure. The structure must be inspected post extermination and be deemed rodent free by the Orange County Commissioner of Health or his/her designee prior to the demolition.

#### **9. Occupant's responsibility as to supplied fixtures and facilities.**

(a) Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean, sanitary and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

**10. Occupant's responsibility as to domestic animals and pets:** Every occupant shall keep his domestic animals and pets in a clean and sanitary manner and under control.

**11. Owner to maintain property free of standing water,** Every owner of any premises, structure, building or dwelling shall keep the premises graded and maintained to prevent the accumulation of standing water, or within any structure, such as swimming pools, ornamental ponds or similar located thereon.

(a) Any structure designed to hold water, such as a swimming pool, ornamental pond or similar must be designed, constructed, operated and maintained to prevent the breeding of insects.

**12. Nuisances.** All complaints regarding what is dangerous to human life or detrimental to health shall be received and investigated. The Orange County Commissioner of Health or his/her designee may enter upon or within any place or premises where nuisances or conditions dangerous to life and health or which are the cause of nuisances existing elsewhere are known or believed to exist.

### **SECTION 3- MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES**

**1. Basic equipment and facilities required for dwelling or dwelling unit occupied or let for living, sleeping, cooking or eating.** No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

(a) **Kitchen requirements.** Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which room shall have adequate floor area available for occupant use and be equipped with the following.

(i) A kitchen sink in good working condition and properly connected to a water supply system which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a functioning public sewerage system or individual sewerage system.

(ii) Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

(b) **Water closet requirements.** Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be connected to a functioning public sewerage system or individual sewerage system.

(c) **Lavatory sink requirements.** Within every dwelling unit there shall be a room which affords privacy to a person within said room which is equipped with a lavatory sink. Said lavatory sink may be in the same room as the flush water closet or in another room; provided that, if located in a room other than the one containing the flush water closet, the water closet shall be located in close proximity to the door leading directly into the room in which said lavatory sink is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which provides at all times an adequate amount of heated and unheated, running water under pressure, and which is connected to a functioning public sewerage system or individual sewerage system.

(d) **Bathtub or shower requirements.** Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a functioning sewerage system or individual sewerage system.

(e) **Smoke Alarms.** Single- and multiple-station smoke alarms shall be installed in any locations otherwise required by the Building Code of New York State, Chapter 9, and the Fire Code of New York State, Chapter 9.

#### **SECTION 4- MINIMUM STANDARDS FOR LIGHT AND VENTILATION**

1. **Light and ventilation required for dwellings or dwelling units occupied or let for living purposes.** No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(a) **Light and Ventilation.**

(i) **Light.**

(1) Every habitable space shall have at least one window facing directly to the outdoors or to a court.

(2) Every public hall and stairway in a multiple dwelling shall be adequately lighted by natural or electric light at all times. Every public hall and stairway in structures containing not more than two dwelling units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(iii) All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

(ii) **Ventilation**

(1) Every habitable space shall have at least one openable window.

(2) Screening. During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every window opening directly from a dwelling unit to outside space shall have supplied properly fitting screens.

(iv) **Bathroom and Water Closet**

Every bathroom and water closet compartment shall comply with the light and ventilation requirement for habitable rooms contained in section 4(1)a(i) and 4(1)a(ii) above, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the Commissioner.

(b) **Electric facilities.** Every occupied building shall be provided with an electrical system. All equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

(i) **Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every lavatory or bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

(ii) Every water closet compartment, toilet room, bathroom, laundry room, furnace room, boiler room and public hall shall contain at least one ceiling or wall type electric lighting fixture.

## **SECTION 5-MINIMUM THERMAL STANDARDS (HEATING AND COOLING)**

**1. Thermal requirements for occupying or letting, for living purposes.** No person shall occupy as owner, occupant or let to another for occupancy any dwellings or dwelling units, for the purpose of living therein, which does not comply with the following requirements:

(a) Heating Facilities. Every dwelling unit or dwelling shall have heating facilities which are properly installed, and are maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable spaces, bathrooms, toilet rooms and water closet compartments in every dwelling unit to maintain 68 degrees Fahrenheit as noted in (b) below. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: Owner-occupied one-family dwellings subject to the approval of the code enforcement official.

(b) Minimum temperature. The owner is responsible for furnishing the heat unless the rental agreement provides otherwise. Between September 15th and May 31st, where the owner furnishes the heat, the temperature shall be maintained at not less than 68 degrees Fahrenheit in all habitable spaces, bathrooms, toilet rooms and water closet compartments. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity. The winter design dry-bulb temperature for the locality shall be as indicated in the *Energy Conservation Construction Code of New York State*.

### **2. Space and water heaters.**

(a) Unvented flame space heaters and space heaters without back-draft diverters and automatic controls are prohibited; portable electric heaters, approved under the appropriate local or State electrical and/or fire prevention code are acceptable (where they meet the provisions of subdivision 1(a) of this section). Where there is no such local or State code, portable electric heaters meeting the standards of the National Electrical Code, as approved by the Underwriter Laboratories, Inc. and the Orange County Commissioner of Health are acceptable. Gas-fueled space or water heaters and accessories or controls shall be properly installed and be of an approved type.

Exception: Unvented flame space heaters shall be permitted if they are installed and maintained properly, used as a secondary source of heat, a carbon monoxide detector is installed in the same room as the unvented flame space heater, and additional carbon monoxide detector(s) is/are installed in close proximity to all sleeping rooms. Maintenance of power source shall be the property owner's responsibility. Required carbon monoxide alarms shall not be removed or disabled, except for replacement, service or repair purposes.

(b) No fuel burning device shall be located in any water closet compartment, toilet room, bathroom or sleeping room.

## **SECTION 6- GENERAL REQUIREMENTS RELATING TO SAFE AND SANITARY PROPERTY MAINTENANCE**

**1. Maintenance and installation requirements for dwellings and dwelling units occupied or let for living purposes.** No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(a) **General.** That a certificate of occupancy has been issued for the dwelling or dwelling unit by the Code Enforcement Agency in the municipality where the dwelling or dwelling unit is located. Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weather-tight, watertight, and damp-free and shall be kept in sound condition and good repair. Floors, interior walls, doors and ceilings shall be sound and in good repair. All exterior wood surfaces other than decay resistant woods shall be protected from the elements and decay by paint or other protective covering or treatment. Lead based and other toxic paints and materials shall not be used on any surface. Walls shall be capable of affording privacy for the occupants. Every premise shall be maintained in a clean, sanitary and safe condition. The presence of noxious weeds shall be prohibited.

(b) **Windows, doors and hatchways.** Every window, exterior door and basement hatchway or similar devices, shall be kept rodent-proof and reasonably watertight and weather-tight, and shall be kept in sound working condition and good repair. All exterior doors shall have properly functioning locking devices that shall be operable from the interior side of the door. All deadbolt type locking mechanisms shall be of the thumb latch style or equivalent on the inside of the exterior door(s), a key operated style on both sides is not acceptable.

(c) **Prevent entrance of rodents.** Every window located at or near ground level used or intended to be used for ventilation, and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate gauge screen or such other devices as will effectively prevent their entrance.

(d) **Safety.**

(i) Stairways, decks, porches and balconies. Every stairway, deck, porch and balcony, and all appurtenances attached there to, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads

(ii) Handrails required. Handrails shall be provided on at least one side of each stairway with three or more risers at an approved height.

(iii) Guards required. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guards. Guards shall be constructed at a height in compliance with all state and local building codes. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below or more than four risers shall have guards.

(e) **Plumbing fixtures and water and waste pipes.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.

(f) **Floors for toilet rooms, water closet compartments, bathrooms and kitchens.** Every toilet room, water closet compartment, bathroom and kitchen floor surface and baseboard shall be constructed and maintained so as to be reasonably impervious to water so as to permit such floor to be easily kept in a clean and sanitary condition.

(g) **Construction, installation and maintenance.** Every plumbing fixture, pipe, chimney, flue and smoke pipe and every other facility, piece of equipment, or utility which is present in a dwelling or dwelling unit, or which is required under this Article, shall be constructed and installed in conformance with the applicable local, State or national codes and shall be maintained in satisfactory working condition.

(h) **Egress.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.

2. **Discontinuance of services, facilities, equipment or utilities.** No owner, operator or occupant shall cause or be responsible for causing any service, facility, equipment or utility which is required under this Part to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is either not reasonably avoidable or is approved by the Orange County Commissioner of Health.

## **SECTION 7- MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS**

24. **Specification of requirements.** No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the applicable State and Local Codes:

(a) **Habitable space below grade.** No space located partially or totally below grade shall be used as a habitable room unless:

(i) The floor and those portions of the walls below grade are of water-proof and damp-proof construction.

(ii) The minimum window area and openable window area are in compliance with all state and local code requirements.

(iii) Window wells, where required, are constructed and maintained in such a manner as to be in compliance with all state and local codes.

(b) **Access to bathrooms, toilet rooms, water closet compartments and sleeping rooms.** No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom, toilet room or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

## **LOCAL LAW NO. 4 OF 2017**

### **A LOCAL LAW TO ESTABLISH ENERGY BENCHMARKING REQUIREMENTS FOR CERTAIN MUNICIPAL BUILDINGS IN THE COUNTY OF ORANGE.**

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

Section 1. This local law shall be known as "MUNICIPAL BUILDING ENERGY BENCHMARKING," and shall read as follows:

#### **Section 1. PURPOSE**

Buildings are the single largest user of energy in the State of New York. The poorest performing buildings typically use several times the energy of the highest performing buildings - for the exact same building use. As such, this Local Law will use Building Energy Benchmarking to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the County of Orange.

Collecting, reporting, and sharing Building Energy Benchmarking data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide. Equipped with this information, the County of



Orange is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement.

## **Section 2. DEFINITIONS**

(1) "Benchmarking Information" shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.

(2) "Building Energy Benchmarking" shall mean the process of measuring a building's Energy use, tracking that use over time, and comparing performance to similar buildings.

(3) "Commissioner" shall mean the head of the Department.

(4) "Covered Municipal Building" shall mean a building or facility that is owned or occupied by the County of Orange that is 1,000 square feet or larger in size.

(5) "Department" shall mean Orange County Department of Planning.

(6) "Energy" shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.

(7) "Energy Performance Score" shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(8) "Energy Use Intensity (EUI)" shall mean the kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.

(9) "Gross Floor Area" shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(10) "Portfolio Manager" shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(11) "Utility" shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(12) "Weather Normalized Site EUI" shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

## **Section 3. APPLICABILITY**

(1) This Local Law is applicable to all Covered Municipal Buildings as defined in Section 2 of this Local Law.

(2) The Commissioner may exempt a particular Covered Municipal Building from the benchmarking requirement if the Commissioner determines that it has characteristics that make benchmarking impractical.

#### **Section 4. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS**

(1) No later than December 31, 2017, and no later than May 1 every year thereafter, the Commissioner or his or her designee from the Department shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(2) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio Manager, the Commissioner or his or her designee from the Department shall begin inputting data in the following year.

#### **Section 5. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION**

(1) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than December 31, 2017 and by September 1 of each year thereafter for Covered Municipal Buildings; and

(2) The Department shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Local Law; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics (as required by Section 5(2)(b)(iii) of this Local Law) across calendar years for all years since annual reporting under this Local Law has been required for said building.

#### **Section 6. MAINTENANCE OF RECORDS**

The Department shall maintain records as necessary for carrying out the purposes of this Local Law, including but not limited to Energy bills and other documents received from tenants and/or Utilities. Such records shall be preserved by the Department for a period of three (3) years.

#### **Section 7. ENFORCEMENT AND ADMINISTRATION**

(1) The Commissioner or his or her designee from the Department shall be the Chief Enforcement Officer of this Local Law.

(2) The Chief Enforcement Officer of this Local Law may promulgate regulations necessary for the administration of the requirements of this Local Law.

(3) Within thirty days after each anniversary date of the effective date of this Local Law, the Chief Enforcement Officer shall submit a report to the Orange County Legislature including but not limited to summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Commissioner determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Local Law.

### **Section 8. 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.

### **Section 9. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

ENACTED BY THE FOLLOWING VOTE:

Ayes 21; Noes 0

Filed with the Secretary of State: 4/14/17

Effective: 04/14/17

# ORANGE COUNTY LEGISLATURE

## LOCAL LAW NO. 5 OF 2017

### **A LOCAL LAW REPEALING THE WIRELESS COMMUNICATIONS SURCHARGE AUTHORIZED BY ARTICLE SIX OF THE COUNTY LAW OF THE STATE OF NEW YORK AND IMPOSING THE WIRELESS COMMUNICATIONS SURCHARGES PURSUANT TO THE AUTHORITY OF NEW YORK STATE TAX LAW SECTION 186-g.**

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

#### **Section 1. PURPOSE**

Local Law No. 3 of 1992 as amended by Local Law No. 5 of 1993 and further amended by Local Law No. 5 of 2011 that imposed the wireless surcharge currently authorized by Article Six of the County Law is hereby repealed.

#### **Section 2. IMPOSITION OF WIRELESS COMMUNICATIONS SURCHARGES**

(a) Pursuant to the authority of Tax Law §186-g, there are hereby imposed and there shall be paid surcharges within the territorial limits of the County of Orange on: (i) wireless communications service provided to a wireless communications customer with a place of primary use within such County, at the rate of thirty cents per month on each wireless communications device in service during any part of the month; and (ii) the retail sale of prepaid wireless communications service sold within such County, at the rate of thirty cents per retail sale, whether or not any tangible personal property is sold therewith.

(b) Wireless communications service suppliers shall begin to add such surcharge to the billings of its customers and prepaid wireless communications sellers shall begin to collect such surcharge from its customers commencing December 1, 2017.

(c) Each wireless communications service supplier and prepaid wireless communications seller is entitled to retain, as an administrative fee, an amount equal to three percent of its collections of the surcharges imposed by this Local Law, provided that the supplier or seller files any required return and remits the surcharges due to the New York State Commissioner of Taxation and Finance on or before its due date.

#### **Section 3. ADMINISTRATION OF SURCHARGES**

The surcharges imposed by this Local Law shall be administered and collected by the New York State Commissioner of Taxation and Finance as provided in paragraph (8) of Tax Law §186-g, and in a like manner as the taxes imposed by Articles Twenty-eight and Twenty-nine of the Tax Law.

#### **Section 4. APPLICABILITY OF STATE LAW TO SURCHARGES IMPOSED BY THIS LOCAL LAW**

All the provisions of Tax Law §186-g shall apply to the surcharges imposed by this Local Law with the same force and effect as if those provisions had been set forth in full in this Local Law,

except to the extent that any of those provisions is either inconsistent with or not relevant to the surcharges imposed by this Local Law.

## **Section 5. NET COLLECTIONS**

Net collections received by this County from the surcharges imposed by this Local Law shall be expended only upon authorization of the County Legislature of the County of Orange and only for payment of system costs, eligible wireless 911 service costs, or other costs associated with the administration, design, installation, construction, operation, or maintenance of public safety communications networks or a system to provide enhanced wireless 911 service serving such County, as provided in paragraph (9) of Tax Law §186-g, including, but not limited to, hardware, software, consultants, financing and other acquisition costs. The County of Orange shall separately account for and keep adequate books and records of the amount and object or purpose of all expenditures of all such monies. If, at the end of any fiscal year, the total amount of all such monies exceeds the amount necessary for payment of the above mentioned costs in such fiscal year, such excess shall be reserved and carried over for the payment of those costs in the following fiscal year.

## **Section 6. EFFECTIVE DATE**

This Local Law shall take effect December 1, 2017.

ENACTED BY THE FOLLOWING VOTE:

Ayes 20; Noes 1  
(Noes: Anagnostakis)

Filed with the Secretary of State: 10/11/17

Effective: 12/1/17

# ORANGE COUNTY LEGISLATURE

## LOCAL LAW NO. 6 OF 2017

**A LOCAL LAW AMENDING LOCAL LAW NO. 5 OF 2017 REPEALING THE WIRELESS COMMUNICATIONS SURCHARGE AUTHORIZED BY ARTICLE SIX OF THE COUNTY LAW OF THE STATE OF NEW YORK AND IMPOSING THE WIRELESS COMMUNICATIONS SURCHARGES PURSUANT TO THE AUTHORITY OF NEW YORK STATE TAX LAW SECTION 186-g.**

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

**Section 1. Section 1 of Local Law No. 5 of 2017 is amended to read as follows:**

Local Law [No. 3 of 1992 as amended by Local Law No. 5 of 1993 and further amended by Local Law No. 5 of 2011]<sup>1</sup> No. 1 of 2005 that imposed the wireless surcharge currently authorized by Article Six of the County Law is hereby repealed.

**Section 2. EFFECTIVE DATE**

This Local Law shall take effect immediately.

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<sup>1</sup> Words in [ ] brackets are deleted.