

**REVISED: May 2, 2013**

CODE OF ETHICS  
COUNTY OF HAMILTON  
STATE OF NEW YORK  
ETHICS IN GOVERNMENT

TABLE OF CONTENTS

<u>Section</u>	<u>Description</u>	<u>Page</u>
101	Title	1
102	Declaration of Policy	1
103	Conflict with Other Provisions	1
104	Definitions	1
105	General Prohibition	3
106	Gifts	6
107	Avoiding conflicts of Interest and Appearance of Conflicts	7
108	Exclusion from Code of Ethics	7
108-A	Waivers	8
109	Avoidance of Contracts Entered Into in Violation of Code of Ethics	8
110	Transactional Disclosure and Recusal	8
111	Maintenance of Disclosure Statements	9
112	Disclosure by Applicants	9
113	Board of Ethics	11
114	Qualifications of Members of the Board of Ethics	11
115	Removal of Member of Board of Ethics	11

116	Ethics Board Meeting and Quorum Requirements	12
117	Power and Duties of Board of Ethics	12
118	Referrals and Investigations	14
119	Public Inspection of Records	16
120	Referred to Hamilton County Board of Supervisors	16
121	Injunctive Relief	16
122	Damages	17
123	Judicial Review	17
124	Distribution of Code of Ethics	17
125	Severability	17
126	Unconstitutionality or Illegality	17
127	Repealer	17
128	Effective Date	18

101            TITLE

Section 101 through 127 shall constitute the Code of Ethics of Hamilton County and may hereinafter be referred to and known as the “Code of Ethics”.

102            DECLARATION OF POLICY

It is fundamental that County government must provide fair, impartial, open and lawful administration of the County. To accomplish this goal, it is necessary that the County has qualified County residents to serve as its elected officers and that all County officers and employees:

102.1           Be impartial, independent and responsible to the residents of the County

102.2           Observe in their official acts, the highest ethical standards of government and faithfully discharge the duties of their offices so that the public shall have the highest regard for the integrity of its government and its County officers and employees.

102.3           Make government decisions in the proper channels of government and govern the County in an open and non-secretive manner.

102.4           Avoid conflicts of interest in their official acts. Although the assurance of ethical conduct will continue to rest primarily on the personal integrity of the officers and employees themselves, on the commitment of elected and appointed officers and on the vigilance of their community, the establishment of the standards and guidelines set forth in this Code of Ethics is an additional step toward providing the highest caliber of public administration for the government of the County of Hamilton and increased confidence in its public officers. For these reasons, a Code of Ethics is hereby established.

103            CONFLICT WITH OTHER PROVISIONS

In the event of any conflict between the provisions of this Code of Ethics and the provisions of the General Municipal Law of the State of New York, the stricter standard shall control. In any case in which it is unclear which the stricter standard is, the provisions of this Code of Ethics shall control.

104            DEFINITIONS

When used in this Code of Ethics, the following terms shall have the meanings indicated:

- 104.1 AGENCY - any office, board, body, commission, department or division of the County.
- 104.2 APPEAR AND APPEAR BEFORE – a representational communication form whether personally or through another person, relating to a business dealing.
- 104.3 BOARD OF ETHICS – the Hamilton County Board of Ethics
- 104.4 BUSINESS DEALING:
  - 104.4.1 Having or providing any contract, service or work with the County
  - 104.4.2 Buying, selling, renting, leasing or otherwise acquiring from or dispensing to the County any good, services, or property; or
  - 104.4.3 Applying for, petitioning, requesting or obtaining any non-ministerial approval or any grant, loan, license or other privilege from the County.
- 104.5 CONFIDENTIAL INFORMATION – information intended by the County to be held in confidence and which is not subject to disclosure pursuant to Article 6 of the Public Officers Law (the Freedom of Information Law) or Article 7 of the Public Officers Law (the Open Meetings Law). “Confidential Information” includes, but is not limited to, all information acquired by a County officer or employee in connection with an ethics complaint or referral or the disposition thereof, except as set forth in Article 119 of this Code of Ethics.
- 104.6 DISCRETIONARY ACT OR DISCRETIONARY ACTION – any action involving the exercise of judgment or discretion by a County officer or employee, with individually or as a member of any agency, and includes, but is not limited to, negotiation, approval, advice, recommendation, authorization or audit. “Discretionary Act” and “Discretionary Action” do not include actions taken by a County Sheriff Department Officer or other County officer or employee in the course of a Sheriff response or in the course of responding to an actual emergency situation.
- 104.7 EXECUTIVE SESSION - a meeting of the Board of Ethics not open to the general public.

- 104.8 FAMILY MEMBER - a spouse, child, step-child, brother, sister, parent, or dependent of a Hamilton County officer, public officer, or party officer.
- 104.9 MINISTERIAL ACT - an act performed in a prescribed manner where there is no exercise of judgment or discretion as to the propriety of the action.
- 104.10 PARTICULAR MATTER - any business dealing with the County, or any application for such business involving a discretionary act of a County officer or employee, or any case, proceeding, determination, investigation, charge, accusation or arrest or any other matter involving a discretionary act of a County officer or employee, but does not include the proposal, consideration or enactment of local laws, ordinances, resolutions or regulations.
- 104.11 PERSON - includes association, partnerships, firms, corporations, governmental or other entities, as well as individuals.
- 104.12 RECUSAL – to refuse to act or to disqualify oneself from doing some act by reason of having an interest in or a prejudice in the particular matter.
- 104.13 SPOUSE – a husband or wife of the County officer or employee, as well as a former spouse after legal separation or after dissolution of their marriage.
- 104.14 COUNTY – the County of Hamilton and all departments and agencies thereof.
- 104.15 COUNTY OFFICER OR EMPLOYEE – any officer or employee of the County, whether paid or unpaid. County “officer or employee” shall not include:
- 104.15.1 County Judge or acting County Judge
- 104.15.2 A civil defense volunteer or volunteer firemen.
- 105 GENERAL PROHIBITION
- 105.1 Except as otherwise provided in this Code or Ethics, no County officer or employee shall:
- 105.1.1 Act as an attorney, agent, broker, employee, consultant or representative for any person in connection with any business dealing that person has

with the County, other than seeking or obtaining a ministerial act for such person.

- 105.1.2 Take or refrain from taking any discretionary action or agree to take or refrain from taking any discretionary action or induce or attempt to induce any other County officer or employee to take or refrain from taking any discretionary action or any matter before the County when the County officer or employee knows or has reason to know that taking such action or refraining from taking such action with financial benefit (or if the applicant is):
  - 105.1.2.1 Himself or Herself
  - 105.1.2.2 A family member
  - 105.1.2.3 A partnership, an unincorporated association, a sole proprietorship, a limited liability company, a joint venture, a trust, or an estate of which the County officer or employee (or a family member of the County officer or employee) is a member or employee in which he or she (or a family member) has a proprietary interest
  - 105.1.2.4 A corporation of which the County officer or employee (or a family member of the County officer or employee) is an officer or director of which he or she (or a family member) legally or beneficially owns or controls more than five percent (5%) of the outstanding stock;
  - 105.1.2.5 A person from whom the County officer or employee (or his or her spouse) had received during the previous twenty-four (24) months a financial or material benefit having an aggregate value greater than One Thousand Dollars (\$1,000.00)
- 105.1.3 Appear as attorney or counsel or represent anyone against the interests of the County in any matter in which the County is a party or complainant, except as permitted in this Code of Ethics.
- 105.1.4 Use any confidential information acquired in the course of his or her official duties to financially benefit himself or herself or any other person and shall not (except where disclosure is required by law or is made pursuant to a New York State whistle blower statute) disclose (during his or her term of office or thereafter) any such confidential information to any person who is not a County officer or employee unless such person is authorized to receive such information. However, nothing herein shall prohibit a County officer or employee who is or was the subject of an

ethics complaint or investigation from disclosing any information relating to such complaint, investigation or the disposition thereof.

**(105.1.5 Repealed by Local Law No. 11 of 2001 - March 1, 2001)**

~~105.1.5 For a period of one (1) year after the termination of his or her term of office or employment with the County, appear or practice before the County, except as permitted in this Code of Ethics; however, the bar shall be permanent as to any particular matter upon which he or she took any action or that came before him or her during his or her term of office or employment with the County.~~

105.1.5 No ex-County officer or employee shall be entitled to have any business dealing, as defined by Section 104.4 of the Code of Ethics, with the County of Hamilton for a period of one (1) year from the date of separation of his or her employment with the County of Hamilton.

Nothing contained in this Code of Ethics shall preclude a County officer, employee or a family member as defined by Section 104.8 of the Code of Ethics from applying for an employment position, or being considered for advancement or promotion or to fill a vacancy, providing that such officer, employee or family member is subject to the same selection process as a non-employee.

However, no such advancement, promotion or appointment to fill a vacancy shall violate any Federal or State statute or court decision. No County Supervisor shall participate in any decision for advancement, promotion or appointment to fill a vacancy wherein there would be a potential for a conflict of interest. Such County Supervisor shall immediately recuse himself or herself from all matters relating thereto. Such County Supervisor shall advise the Board of Supervisors of the potential conflict of interest.

Nothing herein contained shall prohibit the Board of Supervisors from adopting or amending a local law pursuant to Section 10 subdivision a (1) of the Municipal Home Rule Law. The Board of Supervisors shall have the power to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law, relating to the powers, duties, qualifications, number, mode of selection and removal, terms of office, compensation, hours of work, protection, welfare and safety of its officers and employees, and shall include, but not be limited to, the creation or discontinuance of departments of its government and the prescription or modification of their powers and duties.

- 105.1.6 Knowingly acquire, solicit, negotiate for or accept any interest, employment or other thing of value which would put him or her in violation of this Code of Ethics.
- 105.1.7 Induce or aide another County officer or employee to violate any of the provisions of this Code of Ethics.
- 105.2 Except as provided in this Code of Ethics, no partnership, unincorporated association, sole proprietorship, limited liability company, joint venture, trust, or estate of which the County officer or employee is a member or employee or in which he or she has a proprietary interest nor any corporation of which he or she is an officer or director or of which he or she legally or beneficially owns or controls more than five percent (5%) of the outstanding stock shall appear before the particular County Board or Agency in which the County officer or employee serves or by which he or she is employed or appear before any other County Board or Agency if the County officer or employee has the authority to appoint any officer, employee or member of the Board or Agency or to review, approve, audit, or authorize any budget, bill, payment or claim or the Board or Agency.’
- 106 GIFTS
- 106.1 No County officer or employee shall solicit, directly or indirectly, any gifts, or receive or accept any gifts having the value of Seventy-five Dollars (\$75.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any form under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
- 106.2 A gift shall include money, services, licenses, permits, contracts, authorizations, loan, travel, entertainment, hospitality, thing or any promise thereof, including any financial transaction on terms not available to the general public, but shall not include a campaign contribution authorized by law.
- 106.3 Notwithstanding anything to the contrary, nothing in this Code of Ethics shall be construed to prohibit a County officer or employee from receiving:
  - 106.3.1 Gifts from another County officer or employee having aggregate value of not more than Two Hundred Fifty Dollars (\$250.00) during any calendar year.

- 106.3.2 Gifts accepted on behalf of the municipality and transferred to the municipality.
- 106.3.3 Awards from charitable organizations having any value or hospitality from a charitable organization having an aggregate value of not more than Two Hundred Fifty Dollars (\$250.00) during any calendar year.
- 106.3.4 Municipal services or benefits of the use of municipal facilities that are generally available on the same terms and conditions to residents of the County.
- 106.3.5 Hospitality provided to a County officer or employee by another governmental entity having an aggregate value of not more than Two Hundred Fifty Dollars (\$250.00) during any calendar year.

107 AVOIDING CONFLICTS OF INTEREST AND APPEARANCES OF CONFLICTS

A County officer or employee shall not engage in any act which is in conflict or may reasonably appear to be in conflict with the performance of his or her official duties.

108 EXCLUSIONS FROM CODE OF ETHICS

Nothing in the Code of Ethics shall be construed to Prohibit (or require disclosure or recusal of) a County officer or employee or prohibit a former County officer or employee (or any entity described in Article 105.2 of this Code of Ethics):

- 108.1 From receiving a County service of benefit or using County facility on the same terms and conditions as it is available to residents of the County.
- 108.2 From performing or seeking any ministerial act on behalf of himself or herself or any person.
- 108.3 Who is a person listed in Article 11 of the Domestic Relations Law from accepting any gift for the solemnization of marriage by the County officer or employee.
- 108.4 From timely filing any claim, account, demand, or suit against the County on behalf of himself or herself or his or her spouse or child.
- 108.5 From seeking any discretionary action on his or her own behalf.
- 108.6 From participating in or advocating any public policy position in an official or legislative capacity.

108.7 From performing any action specifically authorized or required by local law, statute, rule, regulation or other law of the United States, the State of New York or the County of Hamilton or other governmental entity having jurisdiction over the County of Hamilton.

**(108-A Added by Local Law No. 12 of 2013 – May 2, 2013)**

108-A. WAIVERS

1. Upon written application by a current or former County officer or employee and written approval with justification for the waiver by the applicable department head, the Board of Ethics may grant the applicant, or his or her private employer or business, a waiver of any of the provisions of the Code of Ethics [except: the provisions pertaining to gifts, appearances by the County official's private employer or business, and transactional disclosure] where the Board of Ethics finds that waiving such provision would not be in conflict with the purposes and interest of the County, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.
2. Waivers granted by the Board of Ethics shall be in writing, shall state the grounds upon which they are granted, and shall be available for public inspection and copying.
3. All applications, decisions, and other records and proceedings relating to such waivers shall be indexed and maintained on file by the Board.

109 AVOIDANCE OF CONTRACTS ENTERED INTO IN VIOLATION OF CODE OF ETHICS

Any contract or agreement entered into by or with the County which resulted in or from a violation of this Code of Ethics shall be null or void and unenforceable unless such contract or agreement is ratified by the Board of Supervisors at a public meeting.

110 TRANSACTIONAL DISCLOSURE AND RECUSAL

110.1 A County officer or employee shall promptly recuse himself or herself from acting on a matter before the County when the County officer or employee knows or has reason to know that acting on the matter or failing to act on the matter will financially benefit (or where the applicant is) any of the persons listed in Article 105.1.2 of the Code of Ethics.

110.2 Whenever a County officer or employee is required to recuse himself or herself under this Code of Ethics, the County officer or employee shall promptly file with his or her immediate supervisor, if any, and with the County Clerk a signed statement disclosing the reasons for such recusal or, if a member of a board, shall state such information upon the public record of the Board at a public meeting.

110.3 Nothing in this section shall be construed to require a County officer or employee to recuse himself or herself or to file a disclosure statement in connection with any action excluded from this Code of Ethics pursuant to Article 108 or otherwise permitted by this Code of Ethics.

110.4 If a body is reduced below the number of votes necessary for such body to act by reasons of the recusal required pursuant to this section, the recusing member of such body may apply to the Board of Ethics for a waiver of the recusal requirement of this section. Although recusal may be waived, the obligation to disclose may not be waived by the Board of Ethics.

111 MAINTENANCE OF DISCLOSURE STATEMENTS

Transactional disclosure statements filed pursuant to Article 110 of this Code of Ethics shall be public records and shall be indexed and maintained on file in the appropriate manner by the County Clerk. Upon filing of a disclosure statement, the County Clerk shall promptly transmit a copy of such disclosure statement to the Board of Ethics, the Board of Supervisors, and the County Attorney. The County Clerk shall retain disclosure statements for the same time period as is required for the retention of minutes of a public meeting, but for not less than seven (7) years from the date of filing.

112 DISCLOSURE BY APPLICANTS

112.1 For purposes of this section, the following terms shall have the meanings herein ascribed:

112.1.1 APPLICANT – any person making a submission and also the owner of real property that may be the subject of the submission.

112.1.2 CAMPAIGN CONTRIBUTION – a contribution made directly to a candidate for County elective office or any committee or independent body (as defined in the Election Law of the State of New York) soliciting or receiving funds for the purpose of supporting the candidacy of the county officer or employee for County office. Where contributions are made to a committee or independent body which supports more than one (1) candidate, the contribution shall be considered to have been allocated equally between all the candidates, unless the entire contribution was

earmarked for use for a particular candidate, or as specified by the contributor. For purposes of this section, a loan to a candidate or campaign committee shall be considered a “Campaign Contribution”.

- 112.1.3 SUBMISSION – any written application to the County Planning Board (if one is hereafter established) or for a special permit, special exception or change of zone or any employment application or any written bid submitted to the County where the amount of the bid exceeds the statutory competitive bidding monetary threshold.
- 112.2 Any applicant who makes a submission to the County shall disclose in writing, as part of the submission:
  - 112.2.1 The name of any County officer or employee to whom the applicant has made on one (1) or more campaign contributions totaling Two Hundred Fifty Dollars (\$250.00) or more within the previous twenty-four (24) months; and
  - 112.2.2 The name of any County officer or employee who, to the applicant’s knowledge:
    - 112.2.2.1 Has an interest in the submission or in the applicant; and
    - 112.2.2.2 Also is required to take any discretionary action on the submission.
- 112.3 For purposes of this section, a County officer or employee shall be deemed to have an interest in the submission or in the applicant when the County officer or employee:
  - 112.3.1 Is the applicant;
  - 112.3.2 Is a family member of the applicant;
  - 112.3.3 Is an officer or director of or legally or beneficially owns or controls more than five percent (5%) of the outstanding stock of the corporate applicant, or is an officer, employee, or a person having an interest in a partnership, limited liability company, limited liability partnership, limited partnership, joint venture, trust, or estate.
  - 112.3.4 Has or, to the applicant’s knowledge, intends to enter into an employment, professional, business or financial relationship with the applicant or any principal of the applicant;
  - 112.3.5 Has received from the applicant, within the previous twenty-four (24) months, a financial or material benefit having an aggregate value greater than One Thousand Dollars (\$1,000.00); or

- 112.3.6 Will receive, pursuant to an agreement between the application and any person, a financial or material benefit if the County disposition of the submission is favorable to the applicant.
- 112.4 A copy of the applicant's disclosure state shall be promptly filed with the County Clerk and maintained pursuant to Article 111 of the Code of Ethics.
- 113 BOARD OF ETHICS
- 113.1 A County Board of Ethics, consisting of five (5) members, is hereby established, the members of which shall be appointed by the Board of Supervisors subject to the approval of the Board of Supervisors.
- 113.2 The terms of office of members of the Board of Ethics shall be five (5) years and shall run from January 1 through December 31. On the effective date of this Code of Ethics, the terms of the members of the Board of Ethics as then constituted shall be extended to December 31, of the first, second, third, fourth and fifth years, respectively, from January 1, immediately preceding the effective date of this Code of Ethics, with the member having the greatest seniority appointed for the longest term and the member having the least seniority appointed for the shortest term.
- 113.3 The County Board of Ethics shall adopt rules and regulations as to forms and procedures and shall at all times maintain appropriate records of its opinions and proceedings.
- 114 QUALIFICATIONS OF MEMBERS OF THE BOARD OF ETHICS
- 114.1 All members of the Board of Ethics shall be residents of the County.
- 114.2 No person may serve on the Board of Ethics while holding other County office or while being employed by or while receiving financial compensation from the County.
- 114.3 A member of the Board of Ethics shall not hold office in any independent body (as defined in the Election Law of the State of New York) nor have held office in any independent body during the two year period immediately preceding his or her appointment to the Board of Ethics.
- 114.4 Only persons ready, willing and able to perform their responsibilities on the Board of Ethics in a completely impartial and nonpartisan manner shall be eligible to be appointed to the Board of Ethics.
- 115 REMOVAL OF MEMBER OF BOARD OF ETHICS

115.1 A member of the Board of Ethics may be removed by the Board of Supervisors with the consent of the Board of Supervisors after a public hearing at which the reason (s) for such removal shall be presented to the public and at which hearing the member of the Board of Ethics sought to be removed shall have an opportunity to reply.

115.2 Grounds for removal shall be substantial neglect of duty, misconduct in office, inability to discharge the powers or duties of office or violation of this Code of Ethics.

115.3 Any action, decision or vote to remove a member of the Board of Ethics pursuant to this section shall take place at a regularly scheduled public meeting of the Board of Supervisors at which the Board of Supervisors shall disclose such removal and the reasons therefore.

115.4 To ensure full voting strength and minimum quorum requirements, a new member shall be appointed to the Board of Ethics as soon as practicable, but not more than forty-five (45) days after removal of a member of the Board of Ethics pursuant to this section or upon occurrence of a vacancy.

116 ETHICS BOARD MEETING AND QUORUM REQUIREMENTS

116.1 At the first meeting of the Board of Ethics, and annually thereafter, the members shall elect a chairperson from among its membership. A quorum, consisting of not fewer than three (3) members, shall be necessary for the Board to vote upon any matter. A concurring vote of at least three (3) members shall be required for affirmative action of the Board of Ethics and to elect a Chairperson.

116.2 The Chairperson or any three (3) members may call a meeting of the Board of Ethics. As a minimum, the Board of Ethics; shall meet quarterly.

116.3 The Board may hold as many meetings as it deems necessary or as shall be called by the Chairperson or any three (3) members, provided that a meeting of the Board of Ethics shall be held promptly after the filing of a complaint alleging a violation of this Code of Ethics or after referral by the Board of Supervisors, at which meeting such complaint shall be considered by the Board of Ethics, as well as any other matters before it.

117 POWERS AND DUTIES OF BOARD OF ETHICS

117.1 The Board of Ethics shall have the following powers and duties in addition to any other powers and duties set forth in this Code of Ethics:

- 117.1.1 To prescribe and promote rules and regulations governing its own internal organization and procedures in a manner consistent with law and with this Code of Ethics.
- 117.1.2 To conduct investigations pursuant to Article 118 of the Code of Ethics.
- 117.1.3 To make referrals and to institute actions and proceedings pursuant to this Code of Ethics, to conduct hearings and make recommendations to the Hamilton County Board of Supervisors.
- 117.1.4 To grant waivers of recusal requirements under the circumstances set forth in Article 110.4 of the Code of Ethics
- 117.1.5 To render advisory opinions with respect to the interpretation or application of this Code of Ethics upon written request by any County officer or employee or any applicant, as defined in Article 112 of this Code of Ethics, as to whether his or her own action might violate a provision of this Code of Ethics, which advisory opinions shall be available for public inspection. In rendering such advisory opinions, the Board of Ethics shall omit all information identifying the requestor and all nonessential information in order to encourage free inquiry by officers and employees for advisory opinions.
- 117.1.6 To review all transactional disclosure statements and, if the Board determines that a statement is deficient or reveals a potential violation of the Code of Ethics, to notify the person in writing of the deficiency or possible or potential violation of the penalty for failure to comply with this Code of Ethics.
- 117.1.7 To make information concerning this Code of Ethics available to all County officers and employees, to the public and to any person who is interested in doing business with the County.
- 117.1.8 To prepare an annual report and recommend changes to this Code of Ethics, if any.
- 117.1.9 To act as may be otherwise prescribed or permitted by this Code of Ethics or by the General Municipal Law of the State of New York, as amended.
- 117.10 Upon request from a local municipality within the County of Hamilton, may render advisory opinions with respect to its Code of Ethics or the General Municipal Law of the State of New York.
- 117.2 The termination of a County officer's or employee's term of office or employment with the County shall not affect the jurisdiction of the Board

of Ethics with respect to the requirements that this Code of Ethics imposed on the County officer or employee prior to such termination or with respect to the requirements that this Code of Ethics continues to impose on the former County officer or employee after the termination of his or her term of office or employment with the County.

117.3 The County Attorney shall be utilized by the Board of Ethics as counsel to the Board of Ethics, except he or she shall be excused when he or she has or may reasonably appear to have a conflict of interest, in the event that the County Attorney, of the Board of Ethics determines that he or she or may reasonably appear to have a conflict of interest, the Board of Supervisors shall appoint counsel for the Board of Ethics.

117.4 The Clerk of the Board of Supervisors shall act as secretary to the Board of Ethics, except he or she shall be excused when he or she may reasonably appear to have a conflict of interest. In the event that the Clerk of the Board of Supervisors or the Board of Ethics determines that he or she has or may reasonably have a conflict of interest, the Board of Supervisors shall appoint a secretary for the Board of Ethics.

118 REFERRALS/INVESTIGATIONS

118.1 Upon receipt of a complaint alleging a violation of this Code of Ethics, sworn to upon penalty or perjury and stated the personal knowledge of the complainant, on forms prescribed by the Board of Ethics (and submitted in sealed form to the Board of Ethics), or upon the written referral of the Board of Supervisors or the County Attorney, the Board of Ethics shall immediately notify and provide a copy of any such sworn complaint or referral to the subject of the complaint. The Board of Ethics may reject any sworn complaint that clearly has no merit and may bar a complainant from submitting further sworn complaints where the Board of Ethics finds that the complainant has repeatedly abused the system.

118.1.1 The Board of Ethics shall review the complaint alleging violations of the Code of Ethics and if the Board of Ethics suspects the alleged allegations to be of a criminal nature, the Board of Ethics shall immediately refer the matter to the Hamilton County District Attorney's office. The Board of Ethics may refer this matter to the Hamilton County District Attorney's office at any time during its investigation. The Board of Ethics shall proceed with its investigation under Section 118.2 on any matter not referred to the Hamilton County District Attorney's Office, or if the District Attorney's Office determines such conduct is not criminal in nature.

- 118.2 The Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provisions of this Code of Ethics, subject to the requirements of due process of law. In conducting any such investigation, the Board of Ethics may administer oaths of affirmations, subpoena witness, compel their attendance and require the production of books and records which it may deem relevant and material. Such investigation shall be conducted by the Board of Ethics in executive session. No person who is subject of an investigation shall be required to testify before the Board of Ethics.
- 118.3 The subject of the investigation has a right to appear before the Board of Ethics with counsel of his choice in executive session to question witnesses or challenge documentary evidence that may be considered by the Board of Ethics. The County of Hamilton shall pay reasonable attorney's fees and litigation expenses for such counsel pursuant to Resolution No. 190 of the Hamilton County Board of Supervisors' Proceedings of 1981 and Public Officers Law Section 18. Nothing in this section shall authorize the County of Hamilton to pay for private, legal counsel if the matter is referred to the District Attorney's Office, and that office institutes criminal action against the subject of the investigation.
- 118.4 Nothing herein shall be construed to permit the Board of Ethics to conduct an investigation of itself or any of its members. Should the Board of Ethics receive a sworn complaint alleging that the Board to Ethics or any of its members had violated any provisions of the Code of Ethics or any other law, it shall promptly transmit a copy of the complaint to the Board of Supervisors and the County Attorney, who shall investigate the complaint and take appropriate remedial action should the results of their investigation so warrant. Any member of the Board of Ethics who is investigated is entitled to the same protections afforded to all subjects pursuant to the Code of Ethics.
- 118.5 The Board of Ethics shall advise the Board of Supervisors of the disposition of every sown complaint or referral that it receives and of every related investigation that it conducts and shall set forth its related findings, opinions and recommendations in writing; provided, however that the complainant's name and all identifying and nonessential information shall be deleted from all such documents.
- 118.6 The Board of Ethics shall promptly transmit copies of its findings, opinions and recommendations to the subject of the investigation and shall provide copies to the complainant after deleting all nonessential personal information about the subject of the complaint and identifying the subject of the complaint by case number only.

118.7 All meetings or proceedings of the Board of Ethics concerning all alleged ethical violation by a County officer or employee shall be held in executive session, except upon the request of the subject officer or employee.

119 PUBLIC INSPECTION OF RECORDS

THE FOLLOWING RECORDS SHALL BE AVAILABLE FOR PUBLIC INSPECTION:

119.1 Transactional disclosure statements

119.2 Application disclosure statements

119.3 Rules and regulations of the Board of Ethics

119.4 Final dispositions of the Board of Ethics that find an officer or employee to have violated provisions of the Code of Ethics. The complainant's name and identifying information and all other nonessential personal information shall be deleted.

119.5 Waivers granted pursuant to Article 117.1.4 of this Code of Ethics

119.6 Advisory opinions issued (and redacted) pursuant to Article 117.1.5 of this Code of Ethics

119.7 Educational materials and annual reports.

120 REFERRED TO HAMILTON COUNTY BOARD OF SUPERVISORS

120.1 The Board of Ethics, after completing its investigation, and after making a determination that there has been a violation of this Code of Ethics, shall immediately transmit in writing a copy of its findings to the Chairman of the Board of Supervisors together with the Board of Ethics' recommendations as to the appropriate administrative remedies which shall include warnings, reprimands, suspension, or removal from office or employment. The Board of Supervisors shall have the right to conduct further investigations, to refer the matter back to the Board of Ethics for further inquiry, to accept the findings of the Board of Ethics in whole or in part, and to make its own determinations as to the appropriateness of any of the administrative remedies recommended by the Board of Ethics.

121 INJUNCTIVE RELIEF

The Board of Ethics or the Board of Supervisors may initiate proceedings in the Supreme Court of the State of New York for injunctive relief to

enjoin a violation of this Code of Ethics or to compel compliance with this Code of Ethics.

122        DAMAGES

Any person whether or not a County officer or employee, who knowingly violates any provision of this Code of Ethics shall be liable in damages to the County for any losses or increased costs incurred by the County as a result of the violation such damages may be imposed in addition to any other penalty contained in this Code of Ethics.

123        JUDICIAL REVIEW

Any person aggrieved by a decision of the Board of Ethics and/or the Board of Supervisors may seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules.

124        DISTRIBUTION OF CODE OF ETHICS

The Clerk to the Board of Supervisors shall cause this Code of Ethics to be distributed to every County officer and every County employee. Each such person who enters government service after this distribution shall receive a copy of this Code of Ethics before entering upon his or her duties and shall sign a statement that he or she has received the same within sixty (60) days after the effective date of this Code of Ethics, the County Clerk shall obtain a similar signed statement from every County officer and every County employee whose office or employment predated this Code of Ethics.

125        SEVERABILITY

Should any section, clause or requirement of this Code of Ethics be found by a court or competent jurisdiction to unenforceable or unlawful or invalid, that section, clause or requirement shall be served from this Code of Ethics and the remainder shall continue in full force and effect.

126        UNCONSTITUTIONALITY OR ILLEGALITY

If any clause, sentence, paragraph, word, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal, or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

127        REPEALER

The existing Code of Ethics of the County of Hamilton is hereby repealed; however, nothing herein shall impair the validity of any action taken or to be taken pursuant to such existing Code of Ethics with respect to any violation occurring before the effective date of this chapter.

128        EFFECTIVE DATE

This Local Law shall take effect immediately upon being filed in The Secretary of State's Office as provided in Section 27 of The Municipal Home Rule Law.