

RESOLUTION NO. 165-18

AUTHORIZING A PUBLIC HEARING TO CONSIDER  
PROPOSED LOCAL LAW NO. 10 OF 2018 RESCINDING LOCAL LAW NO. 10 OF  
THE YEAR 1995 ENTITLED "CODE OF ETHICS OF HAMILTON COUNTY" WITH  
AMENDMENTS AND ADOPTING A NEW "CODE OF ETHICS OF HAMILTON  
COUNTY"

DATED: MAY 3, 2018

BY MR. D. WILT:

Resolved, That Proposed Local Law No. 10 Of 2018 Titled "Rescinding Local Law No. 10 Of The Year 1995 Entitled "Code Of Ethics Of Hamilton County" With Amendments And Adopting A New "Code Of Ethics Of Hamilton County", attached hereto and made a part hereof, be, and the same hereby is introduced before the Hamilton County Board Of Supervisors, and in order to give interested members of the public the opportunity to be heard thereon, the Board of Supervisors shall hold a public hearing at the Supervisors' Rooms in the Hamilton County Municipal Building on the 7<sup>th</sup> day of June, 2018, At 11:00 a.m., on the matter of the adoption of said proposed Local Law No. 10 of 2018, entitled "Rescinding Local Law No. 10 Of The Year 1995 Entitled "Code Of Ethics Of Hamilton County" With Amendments And Adopting A New "Code Of Ethics Of Hamilton County ", and it be further

RESOLVED, that the Clerk of the Board of Supervisors be, and she hereby is authorized and directed to give notice of such public hearing in the manner provided by law.

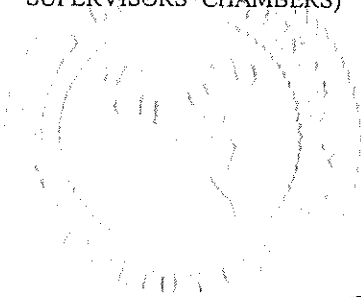
Seconded by Mr. Wells and adopted by the following vote:

AYES: R. WILT, TOMLINSON, WELLS, FREY, D. WILT, SEAMAN, FARBER AND  
BEACH

NAYS: NONE

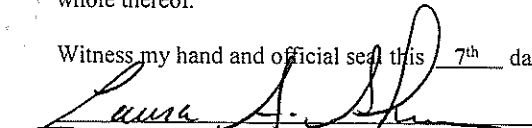
ABSENT: STORTECKY

STATE OF NEW YORK )  
COUNTY OF HAMILTON ) SS:  
SUPERVISORS' CHAMBERS)



I, Laura A. Abrams, Clerk of the Board of Supervisors of Hamilton County hereby certify that I have compared the foregoing resolution with the original resolution, adopted by the Board of Supervisors of said County, at a duly called and held meeting of said Board on the 3<sup>rd</sup> day of May, 2018 and the same is true and correct transcript there from and the whole thereof.

Witness my hand and official seal this 7<sup>th</sup> day of May, 2018.

  
Clerk of the Board

COUNTY OF HAMILTON

PROPOSED LOCAL LAW NO. 10 OF 2018

RESCINDING LOCAL LAW NO. 10 OF THE YEAR 1995 ENTITLED “CODE OF ETHICS OF HAMILTON COUNTY” WITH AMENDMENTS AND ADOPTING A NEW “CODE OF ETHICS OF HAMILTON COUNTY”

BE IT ENACTED, by the Board of Supervisors of the County of Hamilton, as follows:

**Section I – Legislative Intent**

The Code of Ethics duly adopted by the Board of Supervisors in 1995 has been confusing and more difficult to interpret than Article 18 of the General Municipal Law, whereby at times creating an undue hardship. The Intent of this new Code of Ethics is to provide the Board of Ethics the ability to better serve, when appropriate, the County and grant waivers from those restrictions which are in excess of Article 18 of the General Municipal Law.

**Section II –** A new Hamilton County Code of Ethics, which shall supersede any previous Code of Ethics and amendments and shall read as follows:

**Code of Ethics**

WHEREAS, article 18 of the General Municipal Law prohibits the officers and employees of a County from having certain conflicts of interest, and

WHEREAS section 806 of the General Municipal Law requires the governing body of each County, city (other than the City of New York), town, village, school district and fire district to adopt a Code of Ethics that sets forth for the guidance of its officers and employees standards of conduct reasonably expected of them, and

WHEREAS, a Code of Ethics adopted by the governing body of a County must set forth standards of conduct for the guidance of the officers and employees of the County with respect to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable.

NOW, THEREFORE, be it resolved that the Board of Supervisors of the County of Hamilton hereby adopts a Code of Ethics to read as follows:

**Code of Ethics of County of Hamilton, State of New York**

**Section 1. Purpose.**

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

- A. To establish those standards;
- B. To provide guidance of these standards to all officers and employees of Hamilton County, whether elected or appointed, paid or volunteer;
- C. To promote public confidence and integrity in local government;
- D. To facilitate the consideration of potential ethical problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people by requiring:
  - 1. Public disclosure of conflicts of interest, and potential conflicts of interest, that may influence or be perceived to influence the actions of officers and employees of the County; and
  - 2. The recusal of any officer or employee of the County, if the officer's or employee's acting, or failing to act, on the matter may result in a conflict of interest, or give the reasonable appearance of a conflict of interest; and
- E. To provide for fair and effective administration of this Local Law.
- F. This Code of Ethics is the **minimum** standard of ethical conduct; employees and officials are encouraged to go above and beyond these expectations.

## **Section 2. Definitions.**

- (a) "Board" means the Board of Supervisors and any County administrative board, commission, or other agency or body comprised of two or more County officers or employees.
- (b) "Code" means this Code of Ethics.
- (c) "Interest" means a direct or indirect financial, material or personal benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the County or an area of the County, or a lawful class of such residents or taxpayers. A County officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.
- (d) "County" means Hamilton County.
- (e) "County officer or employee" means any officer or employee of Hamilton County, whether paid or unpaid, elected or appointed, full or part time, or in any advisory capacity, and includes without limitation all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, branch or committee of Hamilton County. A County officer or employee shall not include a County Judge or acting County Judge.
- (f) "Relative" means a spouse, domestic partner, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a County officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

(g) “Contract” includes any claim, account, demand against or agreement with the County—verbal or written, express or implied. Almost any business dealing with the County will involve a “contract”, including purchase or sales agreements, construction agreements and service contracts, as well as vouchers for payment submitted to the County.

### **Section 3. Applicability.**

This Code of Ethics applies to the officers and employees of Hamilton County, and shall supersede any prior County Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of Hamilton County. In the event of any conflict between this Code of Ethics and the provisions of the General Municipal Law of the State of New York, the stricter standard shall control.

### **Section 4. Prohibition on Use of County Position for Personal or Private Gain.**

No County officer or employee shall use his or her County position or official powers and duties to secure a financial, material or personal benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

### **Section 5. Disclosure of Interest in Legislation and Other Matters.**

(a) Whenever a matter requiring the exercise of discretion comes before a County officer or employee, either individually or as a member of a board, and disposition of the matter could result in, or appear to result in, a direct or indirect financial, material or personal benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the County officer or employee shall disclose in writing the nature of the interest.

(b) The disclosure shall be made when the matter requiring disclosure first comes before the County officer or employee, or when the County officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the Board of Supervisors of the County. In all other cases, the disclosure shall be filed with the person’s supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the County officer, employee or board having the power to appoint to the person’s position. In addition, in the case of a person serving on a County board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

### **Section 6. Recusal and Abstention.**

(a) No County officer or employee may participate in any decision or take any official action (recusal) with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it (abstention), when he or she knows or has reason to know that the action could confer a direct or indirect financial, material or personal benefit, or appear to do

so, on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

(b) In the event that this section prohibits a County officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a County officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a County officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

(3) if the power or duty is vested in a County employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

#### **Section 7. Prohibition Inapplicable; Disclosure, Recusal and Abstention Not Required.**

(a) This code's prohibition on use of a County position (Section 4), disclosure requirements (Section 5), and requirements relating to recusal and abstention (Section 6), shall not apply with respect to the following matters:

(1) adoption of the County's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(i) all County officers or employees;

(ii) all residents or taxpayers of the County or an area of the County; or

(iii) the general public; or

(3) any matter that does not require the exercise of discretion.

(b) Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by Section 6 of this code;

(2) which comes before a County officer when the officer would be prohibited from acting by Section 6 of this code and the matter cannot be lawfully delegated to another person.

#### **Section 8. Investments In Conflict with Official Duties.**

(a) No County officer or employee may acquire the following investments:

(1) investments that can be reasonably expected to require more than sporadic recusal and abstention under Section 6 of this code; or

(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does not prohibit a County officer or employee from acquiring any other investments or the following assets:

(1) real property located within the County and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the County and acquired more than one year after the date on which the bonds or notes were originally issued.

#### **Section 9. Private Employment in Conflict with Official Duties.**

No County officer or employee, during his or her tenure as a County officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

(a) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;

(b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a County officer or employee;

(c) violates section 805-a(1)(c) or (d) of the General municipal law; or

(d) requires representation of a person or organization other than the County in connection with litigation, negotiations or any other matter to which the County is a party.

#### **Section 10. Future Employment.**

(a) No County officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the County officer or employee, either individually or as a member of a board, while the matter is pending or within one year following final disposition of the matter.

(b) No County officer or employee, for the one-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 County office, board, department or comparable organizational unit for which he or she serves.

(c) No County officer or employee, at any time after serving as a County officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a County officer or employee.

### **Section 11. Personal Representations and Claims Permitted.**

This code shall not be construed as prohibiting a County officer or employee from:

(a) representing himself or herself, or his or her spouse or minor children before the County; or

(b) asserting a claim against the County on his or her own behalf, or on behalf of his or her spouse or minor children.

### **Section 12. Use of County Resources**

(a) County resources shall be used for lawful County purposes. County resources include, but are not limited to, County personnel, and the County's money, vehicles, equipment, materials, supplies or other property.

(b) No County officer or employee may use or permit the use of County resources for personal or private purposes, but this provision shall not be construed as prohibiting:

(1) any use of County resources authorized by law or County policy;

(2) the use of County resources for personal or private purposes when provided to a County officer or employee as part of his or her compensation; or

(3) the occasional and incidental use during the business day of County telephones and computers for necessary personal matters such as family care and changes in work schedule.

(c) No County officer or employee shall cause the County to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

### **Section 13. Interests in Contracts.**

(a) No County officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law (any future amendment to said statute shall automatically amend the reference hereinafter):

*[Except as provided in section eight hundred two of this chapter, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest in a bank or trust company designated as a*

*depository, paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.]*

(b) Every County officer and employee shall disclose in writing interests in contracts with the County in accordance with Section 5(c) of the Ethics Code.

#### **Section 14. 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.

#### **Section 15. Nepotism.**

Except as otherwise required by law:

(a) No County officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the County or a County board.

(b) No County officer or employee may supervise a relative in the performance of the relative's official powers or duties.

#### **Section 16. Political Solicitations.**

(a) No County officer or employee shall directly or indirectly compel or induce a subordinate County officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(b) No County officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any County officer or employee, or an applicant for a position as a County officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(c) No County officer or employee may engage in any political activity: while on duty for the County; with the use of County funds; supplies; vehicles or facilities; in uniform; or during any period of time during which he or she is normally expected to perform services for the County, for which compensation is paid.

#### **Section 17. Complicity with or Knowledge of Others' Violations**

(a) No one may, directly or indirectly, induce, encourage, or aid anyone to violate any provisions of this Code. If an official or employee suspects that someone has violated this code,



he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the official sits or before which the official or employee is or will soon be appearing, or the Ethics Board if the violation is past.

(b) Neither the County nor any person, including officials and employees, may take or threaten to take, directly or indirectly, official or personal action, including, but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary or responsibilities, against any official, employee, or other person (or against any member of their family) because that person, or a person acting on their behalf, reports, verbally or in writing, or files a complaint with the Board of Ethics regarding an alleged violation of this Code, or is requested by the Board of Ethics to participate in an investigation, hearing, or inquiry.

(c) Anyone who alleges a violation of subsection (b) may bring civil action for appropriate injunctive relief, or actual damages, or both within ninety days after the occurrence of the alleged violation.

#### **Section 18. Confidential Information.**

No County officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

#### **Section 19. Gifts.**

(a) No County officer or employee may directly or indirectly solicit any gift.

(b) No County officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more.

(d) For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

(e) (1) A gift to a County officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks County action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a County officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained County

action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

(f) This section does not prohibit any other gift,

including:

(1) gifts made to the County;

(2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a County officer or employee, is the primary motivating factor for the gift;

(3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

(4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a County officer or employee, or other service to the community; or

(6) meals and refreshments provided when a County officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

## **Section 20. Waivers.**

(a) 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.

(b) 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.

(c) All applications, decisions and other records and proceedings relating to such waivers shall be indexed and maintained on file by the Board of Ethics.

## **Section 21. Board of Ethics.**

(a) There is hereby established a Board of Ethics for the County. The Board of Ethics shall consist of five members, a majority of whom shall not be officers or employees of the County

or any Municipality within the County, but at least one of whom must be an officer or employee of the County or any Municipality within the County. The members of such Board of Ethics shall be appointed by the Board of Supervisors and receive no salary or compensation for their services as members of the Board of Ethics.

(b) 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. Members of the Board of Ethics may be reappointed for additional terms.

(c) The Board of Ethics shall adopt rules and regulations as to forms and proceedings and shall at all times maintain appropriate records of its opinions and proceedings.

### **Section 22. Qualifications of Members of the Board of Ethics**

(a) All members shall be residents of Hamilton County, who are ready, willing and able to perform their responsibilities on the Board of Ethics in a completely impartial and nonpartisan manner.

(b) A member of the Board of Ethics shall not hold office in any political party or other organization that nominates candidates for office, nor have held any such office during the two year period immediately preceding his or her appointment to the Board of Ethics.

### **Section 23. Removal of Member of the Board of Ethics**

(a) A member of the Board of Ethics may be removed by 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.

(b) 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.

(c) 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.

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

### **Section 24. Board of Ethics Meeting and Quorum Requirements**

(a) A quorum of three (3) members shall be necessary for the board to vote upon any manner.

(b) At the first meeting of the year, the board will elect a chairperson and vice-chairperson from among their members.

(c) Regular meetings of the Board of Ethics shall be held quarterly.

(d) The board may hold as many special meetings as it deems necessary.

1. The chairperson, or any three (3) members of the board may call a special meeting.

2. A special meeting will be held promptly after the filing of a complaint alleging a violation of this Code of Ethics (See Section 26)

### **Section 25. Powers and Duties of the Board of Ethics**

The Board of Ethics shall have the following powers and duties:

(a) To solely 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.

(b) To solely conduct investigations pursuant to Section 26 of the Code of Ethics.

(c) To solely make referrals and to institute actions and proceedings pursuant to this Code of Ethics, and to conduct hearings and make recommendations regarding the ethical conduct of anyone covered by this Code of Ethics as defined in Section 2 (e) of this Code of Ethics.

(d) To solely grant waivers to this Code of Ethics under the circumstances set forth in Section 20 of this Code of Ethics.

(e) To solely render advisory opinions with respect to the interpretation or application of this Code of Ethics. Any County officer, employer or applicant may make a written request for an advisory opinion as to whether his or her own action might violate a provision of this Code of Ethics. Such advisory opinions will be available for public inspection. In rendering such advisory opinions, the Board of Ethics shall omit all information identifying the requestor and all non-essential information in order to encourage free inquiry by officers and employees for advisory opinions.

(f) To solely review all disclosure statements and, if the Board of Ethics 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 along with the potential penalty for failure to comply with this Code of Ethics.

(g) Make information regarding 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.

(h) To prepare an annual report and recommend changes to this Code of Ethics, if any.

(i) 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 from time to time.

(j) Upon the request from a local municipality, to render advisory opinions, conduct investigations and hold hearings with respect to its Code of Ethics.

(k) 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 such person before or after termination of his or her term of office or employment with the County.

(l) The County Attorney may be utilized by the Board of Ethics as counsel, except he or she shall be excused when the County Attorney determines that he or she may reasonably appear to have a conflict of interest. The Board of Supervisors will then appoint alternative counsel for the Board of Ethics.

(m) The Clerk of the Board of Supervisors shall act as secretary to the Board of Ethics, except he or she shall be excused when the Clerk of the Board of Supervisors determines that he or she may reasonably appear to have a conflict of interest. The Board of Supervisors will then appoint alternative secretary for the Board of Ethics.

## **Section 26. Filing a Complaint; Investigations**

(a) Upon receipt of a complaint of an alleged violation of this Code on a form prepared by the Board of Ethics, which any person or entity may file, the Board of Ethics will first determine if it, in fact, alleges an action or inaction that, if the allegations are true, might constitute a violation of this Code, and that at least one person or entity accused of a violation is covered by this Code. If the Board of Ethics determines that no such action or inaction has been alleged or that no one accused is covered by this code, then it will dismiss the complaint with notice to the complainant. Similarly, if the Board of Ethics determines that an alleged violation is so minor that it is not worthy of investigation, or is clearly without merit, then it will dismiss the complaint with notice to the complainant. The Board of Ethics must make this determination within thirty days of receipt of a complaint. The Board of Ethics may bar a complainant from submitting further complaints where the Board of Ethics finds that the complainant has repeatedly abused the system.

(b) (Intentionally deleted)

(c) The Board of Ethics will send notification of the complaint, to the respondent against whom the complaint was filed, not later than seven days after making the determination in subsection (a). A copy of the complaint, must accompany such notice. The Board of Ethics will also send notification to the complainant in writing of its receipt and acceptance of the complaint.

(d) The Board of Ethics will 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 will immediately refer the matter to the County District Attorney's office. The Board of Ethics may refer this matter to the County District Attorney's office at any time during its investigation.

(e) Upon the acceptance of a complaint the Board of Ethics will conduct any investigation necessary to carry out the provisions of this Code of Ethics. In conducting such investigations the Board of Ethics may administer oaths of affirmation, subpoena witnesses, compel their attendance and require the production of books and records which it may deem relevant and

material. Failure to comply with such requests made by the Board of Ethics are violations of this Code of Ethics, except that no person who is subject of an investigation shall be required to testify before the Board of Ethics.

(f) The subject of an investigation has a right to appear before the Board of Ethics with counsel of his or her choice in executive session to question witnesses or challenge documentary evidence that may be considered by the Board of Ethics.

(g) 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 complaint alleging that the Board of Ethics or any of its members has violated any provisions of the Code of Ethics, it shall promptly transmit a copy of the complaint to the Board of Supervisors and County Attorney, who shall investigate the complaint and take appropriate remedial action should the results of his or her investigation warrant it. 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.

(h) The Board of Ethics shall promptly transmit copies of its findings, opinions and recommendations to the subject of the complaint and shall provide copies to the complainant after deleting all nonessential identifying information and identifying the subject of the complaint by case number only.

(i) The Board of Ethics shall advise the Board of Supervisors of the disposition of every accepted complaint that it receives and of every related investigation that it conducts, setting forth its related findings, opinions and recommendations in writing, providing, however, that the complainant's name and all nonessential identifying information shall be deleted from all such documents. If the Board of Ethics has determined that there has been a violation of this Code of Ethics, the Board of Ethics will recommend to the Board of Supervisors implementation of appropriate remedies and/or penalties including, but not limited to, warnings, reprimands, suspension, removal from office or employment, civil fine, civil forfeiture, payment of damages or restitution, or debarment from entering any contract with the County for a period of up to three years. The Board of Supervisors may pursue one or more of the foregoing remedies, or may order a violator to cease and desist if the violation is still ongoing, or it may initiate proceedings in the Supreme Court of the State of New York for injunctive relief to enjoin a violation of this Code or to compel compliance with this Code.

## **Section 27. Public Inspection of Records**

The following records shall be available for public inspection:

(a) Transactional disclosure statements.

(b) Rules and regulations of the Board of Ethics.

(c) Findings, opinions and recommendations regarding complaints filed with and investigated by the Board of Ethics, after deleting all nonessential identifying information and identifying the subject of the complaint by case number only.

(d) Waivers granted pursuant to Section 20 of this Code of Ethics.

(e) Advisory opinions issued pursuant to Section 25 of this Code of Ethics. Unless the requesting party states otherwise in writing, all names and unnecessary identifying information will be deleted.

### **Section 28. Severability**

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

### **Section 29. Posting and distribution.**

(a) The Clerk of the Board of Supervisors must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the County.

(b) Every County officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing within 60 days. Such acknowledgments must be filed with the Clerk of the Board of Supervisors who must maintain such acknowledgments as a public record.

(c) The failure of a County officer or employee to receive a copy of this Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

### **Section 30. Effective date.**

This law shall take effect immediately upon filing with the Secretary of State and supersedes any previous Code of Ethics