

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ of Niagara
~~Town~~
~~Village~~

Local Law No. 11 of the year 19 98.

A local law Amending Local Law #2-96 Establishing a Code of Ethics for the County of Niagara
(Insert Title)

Be it enacted by the Niagara County Legislature of the
(Name of Legislative Body)

County
~~City~~ of Niagara as follows:
~~Town~~
~~Village~~

**AMENDMENTS TO CODE OF ETHICS LOCAL LAW #2-96
FOR THE COUNTY OF NIAGARA**

SECTION 2. Disclosure of Interest; Legislative Abstention

1. Disclosure of interests regardless of conflict

Every County legislator and public official, including unpaid members of advisory boards, commissions, councils, public benefit corporations and other bodies created by the Niagara County Legislature who are

- a. local elected officials serving on County Boards, commissions, or districts; or
- b. department heads and their deputies and assistants; or
- c. policy makers; or
- d. those officers and employees whose duties involve the negotiation, authorization, or approval of any of the matters listed in Section 813(9)(k) of the General Municipal Law shall, within thirty (30) days after taking office and within thirty (30) days after any change in the status of the matters hereinafter enumerated, file with the Board of Ethics a statement in writing identifying:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

i. The name of any corporation for profit in which they, and/or their spouse, and/or children hold collectively 5% or more of the stock;

ii. Real property situated in Niagara County which they, their spouse, or children hold for profit or from which they, their spouse, or children receive rents or income, excepting such real property as is maintained for use as their residence or the residence of their spouse or children, as the case may be;

iii. Self-employment or employment by, or membership in or on the board of directors of, any corporation, partnership, association, person, or other entity from which the employee derives gross income in excess of \$500.00 per year.

Any such County officer or employee who does not have any such interests shall so file a statement to that effect. Such statements of disclosure shall be sealed, indexed and maintained on file in an appropriate manner by the Board of Ethics.

It shall be the responsibility of the Director of Human Resources, prior to January 31 of each year, determine and compile a list of those persons who, in the Director's judgement, are within the scope of this provision and to forward list to the Board of Ethics which may review and modify said list as it deems appropriate.

2. Disclosure of interest in County business

To the extent that he or she knows thereof, a member of the Legislature and any public officer or employee of the County of Niagara who participates in the discussion or gives official opinion to the Legislature, or any other officer or employee, on any matter before the Legislature, shall disclose the nature and extent of any direct or indirect financial or other private interest he or she has in such matter in a concise written statement to the Chairman of the Legislature, who shall direct such statement to be printed in the official record of the proceedings of the Legislature.

3. Disclosure and abstention in proceedings of County Legislature

When a member of the Niagara County Legislature must take official action on a manner in which he or she has a personal or economic interest distinct from that of the general community, his or her constituents, or a substantial class of the general community or their constituents, the Legislator should consider divesting that interest, if it can be feasibly done without undue hardship. The Legislator's decision in that regard shall be conclusive. If the Legislator does not divest that interest, considering both the seriousness of any appearance of impropriety and the seriousness of the public's need for participation in the action under consideration, the Legislator must abstain from participation in such action.

4. Maintenance of disclosure statements

Transactional disclosure statements filed pursuant to this Code of Ethics and annual statements shall be sealed, indexed and maintained on file for five (5) years, in an appropriate manner, by the Board of Ethics.

Such Disclosure Statements shall be destroyed upon the expiration of this five (5) year period. Such Disclosure Statements shall be confidential and may only be reviewed by the Board of Ethics, the District Attorney, and the Sheriff or the designated attorneys for such board or office.

5. Failure to file disclosure statements

In addition to the filing requirements set forth in Section 2, subdivision 1 herein, each person who is subject to the filing requirements of this Code of Ethics shall file his or her Disclosure Statement on or before March 1 of each year.

Any person who is required to file a Disclosure Statement for 1998 who was not required to file such statement for the prior year shall file his or her Disclosure Statement on or before December 1, 1998.

Upon failure to file a Disclosure Statement, the Board shall notify the reporting person in writing, state the failure to file, and provide the person with a fifteen (15) day period to cure the deficiency. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Board shall send a notice of delinquency to: (a) the reporting person; (b) the reporting person's department head, if appropriate; and (c) the Chairman of the Legislature. The Chairman of the Legislature shall cause the list of those persons who have failed to file reporting statements to be published in the Minutes of the Niagara County Legislature. Any person who fails to file shall be subject to the appropriate sanctions as set forth in Section 14 of this Code of Ethics.

A person who is subject to the filing requirements of this Code of Ethics, who enters into his or her official duties after March 1 of any year, shall have thirty (30) days within which to file his or her transactional disclosure statement.

SECTION 11. Niagara County Board of Ethics: Composition

1. The Niagara County Board of Ethics, heretofore created by Resolution of the Niagara County Legislature adopted September 15, 1970 is terminated effective December 31, 1995, subject to the provisions of this Section.

2. The Niagara County Board of Ethics shall consist of five (5) members, to be appointed by the Chairman of the Niagara County Legislature, subject to confirmation by the County Legislature by a simple majority, who shall serve for three (3) year terms of office. Of

the five (5) members first appointed, two (2) shall serve for one year, two (2) shall serve for two (2) years, and one (1) shall serve for three (3) years, as designated by the Chairman. In the event of a vacancy prior to the expiration of the three (3) year term of office of any member, a successor shall be appointed by the Chairman within sixty (60) days of the occurrence of the vacancy, for the balance of the term. As vacancies occur, successor members shall be appointed by the Chairman of the Legislature subject to confirmation by the County Legislature by a simple majority. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds.

There shall be no more than three (3) members of the same political party serving on the Board at any one time. A majority of the members shall be persons other than County officers or employees but at least one (1) member shall be a County officer or employee. All members shall reside in Niagara County. All members shall serve without compensation, but shall be entitled to reimbursement for reasonable expenses and for mileage in accordance with those rules established by the Legislature.

The Chairman of the Legislature shall appoint a Chairman of the Board of Ethics from among its members. Three (3) members of the Board shall constitute a quorum and the Board shall have the power to act by majority vote of the members of the Board present. The County Attorney, or one of his assistants, shall serve as legal counsel to the Board.

3. In addition to the sanctions set forth in Section 14 of this Code of Ethics for violation of said Code, and other pertinent sections of local and state law, any member of the Board of Ethics may be removed from office prior to the expiration of their term of office by resolution of the County Legislature by a simple majority.

Failure on the part of any member of the Board of Ethics to attend three (3) consecutive meetings of the Board, without good cause shown to the Chairman of the Board, shall be grounds for immediate removal.

SECTION 14. Complaints and hearings

1. All complaints alleging a violation of this code must be submitted in writing. The complainant must sign his or her name and state his or her address.

2. The identity of the complainant and the nature of the complaint shall be kept confidential whenever reasonably possible.

3. Upon receipt of a complaint, the Board shall make a determination as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made that a violation is not alleged by the complaint, the Board shall notify the complainant of its determination in writing.

4. If a determination is made that a violation is alleged by the complaint, the Board shall notify, in writing, the person against whom the complaint is made of the nature of the complaint and the Code provisions allegedly violated. The Board shall also notify the complainant that the complaint has been received and shall be reviewed by the Board.

5. The person charged with a violation shall have fifteen days from receipt of notice of the violation to respond in writing to the Board's notice of alleged violation. The response shall either admit the violation or state facts supporting a denial of the charge.

6. If the charge is denied, the Board shall either dismiss the charge if the facts presented so warrant or conduct a fact hearing.

7. A fact hearing shall consist of sworn testimony, affidavits or such documentary evidence as the Board allows. The person charged shall be allowed to present evidence and to confront evidence presented against him or her. The person charged may be represented by legal counsel. Strict rules of evidence under the laws of the State of New York shall not apply to the hearing. The Board may direct that the hearing be stenographically recorded and transcribed.

8. After the hearing is concluded, the Board shall issue its decision in writing, indicating the reasons therefor. Such decision shall be rendered, if practicable, within the time limits set forth for advisory opinions as contained in Section 12 herein.

SECTION 15. Sanctions

1. Disciplinary action

Any County officer or employee who engages in any action that violates any provision of this Code may be warned or reprimanded or suspended or removed from office or employment, except as otherwise provided by the Public Officers Law of the State of New York, or be subject to any other sanction authorized by law or collective bargaining agreement by the appointing authority or person or body authorized by law to impose such sanctions. No provision herein shall bar a county officer or employee from pursuing any and all rights afforded to them under any collective bargaining agreement to which they are a party should the Board of Ethics recommend oral warning, written reprimand, suspension from employment with or without pay, or removal from office as a result of the officer or employee having been found to have engaged in any action that violates any provision of this Code. An oral warning, written reprimand, suspension from employment with or without pay, removal from office or employment, or other authorized sanction may be imposed in addition to any other penalty contained in this Code or in any other provision of law.

Any sanctions prescribed by this code relative to employees shall be subject to the terms and procedures outlined in the respective Collective Bargaining Agreements and shall not supersede the terms of the properly executed Collective Bargaining Agreements.

2. Civil fine

Any County officer or employee who violates any provision of this Code may be subject to a civil fine of up to \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil forfeiture, pursuant to Subdivision 4 of this section.

3. Damages

Any person, whether or not a County officer or employee, who violates any provision of this Code 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 any other provision of law or in this Code, other than a civil forfeiture, pursuant to Subdivision 4 of this section.

4. Civil forfeiture

Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this Code, may be subject to a civil forfeiture to the County in a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture shall be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil fine pursuant to Subdivision 2 or damages pursuant to Subdivision 3 of this section.

5. Violation

Any person, whether or not a County officer or employee, who intentionally and knowingly violates any provision of this Code shall be guilty of a violation and, upon conviction thereof, if a County officer or employee, shall forfeit his or her County office or employment, subject to the procedures in Civil Service Law and the respective Collective Bargaining Agreements.

Any person, whether or not a County officer or employee, who intentionally and knowingly solicits, requests, commands, importunes, or aids a person to violate any provision of this Code shall be guilty of a violation and, upon conviction thereof, if a County officer or employee, shall forfeit his or her County office or employment, subject to the procedures outlined in Civil Service Law and the respective Collective Bargaining Agreements.

6. Debarment

a. Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this Code, shall be prohibited from entering into any contract with the County for a period not to exceed 25 years. The term of such prohibition shall be established by the Board of Ethics after notice and hearing as set forth herein.

b. No person, whether or not a County officer or employee, shall enter into a contract in violation of a bar imposed pursuant to Subdivision a of this subsection.

c. Nothing in this subsection shall be construed to prohibit any person from receiving a service or benefit or from using a facility, which is generally available to the public.

d. Under this subsection, a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy, request, or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

7. Whenever any provision of this Code is in conflict with any article of a valid collective bargaining agreement between Niagara County and any of its recognized unions or in conflict with any provisions of the Civil Service Law of the State of New York or the Penal Law, the provisions of the respective collective bargaining agreements or the Civil Service and Penal Laws shall be in full force and effect and shall supersede the provisions of this Code.

SECTION 16. Enforcement of Sanctions

The Board of Ethics shall make recommendations for oral warnings or written reprimands. It shall utilize the Human Resources Department, the Payroll Department, the Civil Service Commission, or any other appropriate County agency or department to see to it that warnings, reprimands, suspensions, or removals from office are effectuated. It shall utilize the County Attorney's Office to see to it that civil fines, damages, civil penalties, and debarments are executed. It shall refer activity that could constitute a criminal violation to the Niagara County Sheriff and the District Attorney's Office. The Board of Ethics shall also file copies of its opinions and determinations with the County Clerk. Whether such opinions, determinations, and proceedings are subject to public disclosure shall be governed by the State Freedom of Information Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 11 of 19 98 of the (County)~~(City)(Town)(Village)~~ of Niagara was duly passed by the Niagara County Legislature on October 20 1998, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: 11/4/98

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Niagara

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

County Attorney

Title

County
~~City~~ of Niagara
~~Town~~
~~Village~~

Date: 10-28-98