

# Proposed Local Law Number 2 Of 2022

## County of Ulster

### **A Local Law Amending The Charter Of The County Of Ulster, Amending The Administrative Code, Repealing Chapter 44, Ethics And Disclosure, Of The Code Of The County Of Ulster, And Establishing The “Ulster County Ethics Law”**

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

#### **SECTION 1. TITLE, PURPOSE, AND STATUTORY AUTHORITY.**

A. Title: This Law shall be known as and may be cited as the “Ulster County Ethics Law.” This Local Law amends, repeals and entirely replaces Ulster County Code Chapter 44 (Adopted by the County Legislature of the County of Ulster 12-10-2008 by L.L. No. 11-2008 and known as the “Ulster County Ethics and Disclosure Law”); this Law also repeals Ulster County Charter §§105-107, Administrative Code §§ 33-1 – 33-3 and amends and replaces those Charter and Administrative Code sections with the text specified in Section 15.

B. Purpose:

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

The purposes of this County Ethics Law are to:

- (1) Establish standards of ethical conduct for officers, employees and consultants of Ulster County;
- (2) Provide officers, employees and consultants of Ulster County, whether elected or appointed, paid or volunteer, with clear guidance on such standards;
- (3) Promote public confidence and integrity in the agencies and administrative offices of our local government;
- (4) Facilitate the consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance the accountability of government to the people by requiring public disclosure of financial interests that may influence or be perceived to influence the actions of Ulster County officers and employees; and

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

(5) Provide for the fair and effective administration of the County Ethics Law.

C. The County Ethics Law is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to, nor shall it authorize any conduct prohibited by Article 18 of the General Municipal Law.

**SECTION 2. DEFINITIONS.**

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

A. APPEAR and APPEAR BEFORE: Communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone or electronic means for compensation or pro bono (professional services rendered for the public good or on behalf of those who cannot afford them for little or no compensation), other than those involving ministerial acts.

B. BOARD OF ETHICS (or ETHICS BOARD): The Board of Ethics of the County of Ulster, re-established and reconstituted pursuant to Section 4 of the County Ethics Law.

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

D. CHILD: Means any child or stepchild of a County officer or employee.

E. CONTRACT: Any claim, account or demand against or agreement with the County, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, local law or other proceeding where such publication is required or authorized by law.

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

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

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

H. COUNTY OFFICER OR EMPLOYEE: Any officer or employee of the County, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the County. "County officer or employee" shall not include:

- (1) An individual when serving in his or her capacity as a judge, justice, officer or employee of the court system; or
- (2) A member of an advisory board of the County if, but only if, the advisory board has no authority to implement its recommendations, to act on behalf of the County, or to restrict the authority of the County to act.

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

J. GIFT: The giving of some item of value, or the use of income from property, without expecting to receive something of at least equal value in return. An interest free or reduced interest loan or the sale of an item for less than fair market value also constitute the making of a gift. "Gift" does not include campaign contributions authorized by law or other items or services otherwise excluded as gifts as provided for in Section 5F of the County Ethics Law.

K. IMMEDIATE FAMILY MEMBER/MEMBER OF HOUSEHOLD: Shall include a spouse, un-emancipated child or person claimed as a dependent on the County officer's or employee's latest individual or joint state income tax return or unrelated persons who are continually or at regular intervals living or in the preceding calendar year continually or at regular intervals lived in the same household, **including an individual who may not be related to another person in the same household legally, or biologically, but who has provided for the person's basic needs, or regularly cares for that person.**

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

L. INTEREST: A direct or indirect, pecuniary or material benefit accruing to a County officer or employee as the result of a contract with the County of Ulster which such officer or employee serves. “Interest” does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the County of Ulster, any political subdivision of the County of Ulster, or a lawful class of such residents or taxpayers. “Interest” does not include any negotiated or contracted benefits or entitlements that are procured for the benefit of ~~all~~ ~~or~~ any county employee(s) or officers. (For example, union membership, health insurance, vision and dental benefits, deferred compensation, disability benefits; please note, this list is not exclusive).

For purposes of this County Ethics Law, a County officer or employee shall be deemed to have an interest in the contract of:

- (1) their spouse, un-emancipated children, dependents, and members of the household except a contract of employment with the County which such officer or employee serves;
- (2) A firm, partnership, company, or association of which such officer or employee is a member or employee of;
- (3) A corporation of which such officer or employee is an officer, director or employee; and,
- (4) A corporation, any stock of which is owned and controlled directly or indirectly by such officer or employee, where such officer or employee owns 10% or more of outstanding stock or membership units but shall not include any publicly traded corporation.

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

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

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

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

P. OUTSIDE EMPLOYER OR BUSINESS:

(1) Any activity, other than service to the County, from which the County officer or employee receives compensation for services rendered or goods sold or produced;

(2) Any entity, other than the County, of which the County officer or employee is a member, officer, director, or employee and from which they receive compensation for services rendered or goods sold or produced; or

(3) Any entity in which the County officer or employee has an ownership interest, except a corporation of which the County officer or employee owns less than 10% of the outstanding stock or company membership units.

(4) For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses or allowances.

Q. POLITICAL “PARTY”: shall have the same meaning as the term “party” as contained in § 1-104 of the N.Y.S. Election Law.

R. PERSON: Both individuals and entities.

S. PROSPECTIVE EMPLOYER:

(1) Any person or entity with whom a County officer or employee that is subject this County Ethics law has sought employment from, or to contract with as an independent contractor, within the past twelve (12) months.

(2) Any person or entity with whom the immediate family member of such County officer or employee has sought employment from, or to contract with as an independent contractor, within the past twelve (12) months, to the extent that such County officer or employee has actual knowledge of such immediate family member actually seeking such employment from [or contract with] such person or entity.

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

(3) The phrase “past twelve months” shall not refer to the twelve months preceding the adoption of this County Ethics Law but the twelve months preceding the matter giving rise to the conduct that permits or disallows a contract or expenditure under this County Ethics Law.

T. SIBLING: means any brother, sister, half-brother or half-sister, stepbrother or stepsister, ~~and~~ **or equivalently related nonbinary persons**, of a County officer or employee.

U. SUBORDINATE: The subordinate of a County officer or employee means another County officer or employee over whose activities they have direction, supervision, or control, either directly or indirectly (for example, the subordinate of a subordinate), except those who serve in positions that are in the exempt classification under Section 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of Section 35 of that law.

V. UNEMANCIPATED CHILD: means any child or stepchild of a County officer or employee living in the household of the reporting individual, or is claimed, or could be claimed by law on the state income tax returns of the reporting individual as a dependent.

#### **SECTION 3. PRIOR ETHICS LAWS REPEALED. AUTHORITY CONTINUED.**

Ulster County Charter §§105-107, Administrative Code §§ 33-1 – 33-3 and Code Chapter 44 (Adopted by the County Legislature of the County of Ulster 12-10-2008 by L.L. No. 11-2008 and known as the “Ulster County Ethics and Disclosure Law”) are repealed upon the effective date of this County Ethics Law; provided, however, that nothing, including this section shall prohibit the prosecution, continuation, hearing, determination or enforcement of any matter, including potential or pending cases, arising under the said pre-existing Charter, Administrative Code and Code sections of the County of Ulster, for actions or inactions done or not done as the case may be, by those subject to said pre-existing Charter, Administrative Code and Code sections of the County of Ulster, prior to the effective date of this County Ethics Law. All fines, penalties, criminal, and civil liability as the case may be shall remain in full force and effect and available for prosecution, hearing, determination and enforcement by the Board of Ethics reestablished under Section 4 hereof, under such repealed pre-

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

existing Charter Administrative Code and Code sections of the County of Ulster, for any applicable actions or inaction of those subject to such law as if such law remained in full force and effect for actions taken or inaction prior to the effective date of this County Ethics Law.

#### SECTION 4. BOARD OF ETHICS.

A. Prior Board Dissolved. The Board of Ethics as provided for in Ulster County Charter § C-106 and Administrative Code § A33-2 shall be dissolved and re-established under the terms and conditions provided for in this Section.

B. Membership, Qualification of Board Members, Removal.

(1) Appointment and Confirmation. The Board of Ethics shall consist of seven members, appointed by the County Executive, one of whom shall be nominated by the Chair of the Ulster County Legislature, one of whom shall be nominated by the Majority Leader of the Ulster County Legislature, one of whom shall be nominated by the Minority Leader of the Ulster County Legislature, three of whom shall be nominated by the County Executive of Ulster County, and one of whom shall be nominated by the Board of Ethics **once all other members have been seated**. Of the three nominated by the Chair, Majority Leader and Minority Leader of the Ulster County Legislature, no more than two shall be of the same enrolled party affiliation. Of the three nominated by the County Executive, no more than two shall be of the same enrolled party affiliation. All appointments shall be confirmed by the Legislature. In the event of the failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity from which the original member was selected.

(2) Residency and eligibility requirements. All members of the Board of Ethics shall reside in the County of Ulster and be eligible to register to vote in Ulster County. Enrollment in a political party shall be deemed effective in conformance with Article 5 of Election Law of the State of New York.

No member shall currently serve as a federal, state, county, or local elected official or County employee, or concurrently hold the office of Chair, First Vice Chair, Second Vice Chair, Secretary or Treasurer, or Sergeant at Arms in a

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

federal, state or Ulster County political party. At least one member of the Board of Ethics shall be an employee of a Town, Village or City within the County of Ulster. Nothing in this section shall preclude eligibility for service on the Ulster County Board of Ethics by duly elected Fire Commissioners, and/or members of School or Library Boards, solely by virtue of their election to said office.

(3) Term of Office. The members of the Board of Ethics shall serve staggered five (5) year terms. At the expiration of the term of office of any member of the Board of Ethics, said member shall continue to serve until reappointed or replaced by a new member.

a. The members shall first be appointed to serve as follows:

i. the first member nominated by the County Executive shall serve for five (5) years, the second member nominated by the County Executive shall serve for four (4) years, and the third member nominated by the County Executive shall serve for three (3) years as determined by the order the nominations are filed with the Clerk of the Legislature; and

ii. the member nominated by the Chair of the Legislature shall serve for five (5) years; and

iii. the member nominated by the Majority Leader serve for three (3) years; and

iv. the member nominated by the Minority Leader serve for four (4) years; and

v. the member nominated by the Board of Ethics shall serve for a term of five (5) years.

Each term shall commence on January 1, 2023. Thereafter, each member shall be nominated for a term of five (5) years by the County Executive, Chair, the Majority Leader or the Minority Leader, according to the original manner of nomination.



## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

(4) Vacancies. Vacancies in the Board of Ethics shall be filled in the manner the vacated position was initially appointed and for the balance of the unexpired term.

(5) Removal of Board Members. In addition to the penalties defined specifically for violation of the Ulster County Ethics Law, and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed for cause by the County Executive upon his or her own initiative, or upon the recommendation to the County Executive by a vote of at least two-thirds (2/3) of the members of the Legislature. Prior to removal, the Board of Ethics member shall be given written notice of the grounds for removal and an opportunity to demand and receive an adjudicatory proceeding before a neutral and disinterested hearing officer to be provided by the Ulster County Attorney. Said proceeding shall be conducted according to “Regulations for Adjudicatory Proceedings” formulated and adopted by the Ulster County Legislature. In the event that a removal proceeding is so commenced the Ulster County Attorney shall provide notice thereof to the Legislative Counsel and Minority Counsel.

(6) Compensation. Members of the Board of Ethics shall receive no compensation for services rendered but shall be entitled to their reasonable and necessary expenses incurred in the performance of their duties, within appropriations made for such purposes.

(7) Hiring of Staff and Consultants.

a. The Board of Ethics shall be responsible for the hiring or retaining of any staff or consultants to the Board of Ethics consistent with civil service and other applicable laws and within appropriations made therefore. The secretary to the Board of Ethics shall not be a member of the Board of Ethics.

b. The Board of Ethics may engage outside counsel as necessary and as provided for within designated budget appropriations. **Legislative Counsel, and Minority Counsel, and the County Attorney or Attorney(s)** may not serve as such outside counsel.

c. The Board of Ethics shall utilize special counsel in reviewing and/or advising on and/or acting on any matter relating to an attorney actually

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

engaged in the practice of law who is employed by Ulster County. Neither such special counsel nor the counsel’s firm shall have appeared in a case during the two years preceding the matter referred to the Board of Ethics, where such Ulster County employed attorney or the individual’s office or department has appeared.

(8) Organization and Meeting Requirements. The Board of Ethics shall elect a Chair and other officers from among its members. The Chair or a majority of the Board may call a meeting of the Board. The Board of Ethics shall meet a minimum of two times a year. Four members of the Board shall constitute a quorum and shall be required for the purpose of conducting a meeting. Unless otherwise provided by law, a concurring vote of four members shall be required for the Board to take action.

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

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

(2) Advisory opinions shall be issued only with respect to proposed future action by a public servant. A County officer or employee whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The Board may amend a previously issued advisory opinion after giving reasonable notice to the County officer or employee that it is reconsidering its opinion, provided that such amended advisory opinion shall

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

apply only to future conduct or action of the person. The Board of Ethics shall endeavor in all circumstances to render an advisory opinion within ten business days from the date in which the Board of Ethics determines that it has received sufficient information to render such opinion but shall do so within thirty days from the date of receiving all such sufficient information, unless the person seeking the opinion consents to an extension and agrees to not engage in the action which triggered the request for an opinion during the pendency of the request for an opinion.

(3) Advisory Opinions to be summarized as part of the Annual Report. The Board of Ethics shall provide a summary of the advisory opinions issued in each year as part of the Board of Ethics Annual Report. The advisory opinions of the Board shall be maintained on an annual and cumulative basis.

D. Receive Information and Act on the Same. The Board may accept from the general public or any of its own members or any County officer or employee a complaint or allegation of conflict of interest of any officer or employee of Ulster County. The Board may also accept from the general public or any of its own members or any County officer or employee a complaint or allegation of a violation of this County Ethics Law by a County officer or employee.

(1) Complaints to be signed. All such complaints shall be signed.

(2) Complaints to remain Confidential unless Violation. All such complaints or allegations are to be kept in the confidential records of the Board by the Board unless made public by the Board after a determination of a violation has been made.

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

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

law.

(4) Should the Board determine, by a two-thirds (2/3) vote of its members, that there appears to be merit or probable cause in the complaint or allegation, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the Board and explain the apparent conflict of interest or alleged violation of the County Ethics Law. The written invitation shall be in the form of a notice and shall contain a statement of the facts upon which the Board has relied for its determination of probable cause and a statement of the provisions of law allegedly violated.

The Board shall also inform the County officer or employee of the Board's procedural rules. Such County officer or employee shall have thirty (30) days to respond either orally or in writing and shall have the right to be represented by counsel or any other person. The Board of Ethics shall have the authority to grant an additional thirty (30) at its sole discretion.

(5) If, after consideration of the response of the officer or employee, the Board determines by a two-thirds (2/3) vote of its members that there remains probable cause to believe that a violation has occurred, the Board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred and/or refer the matter to the appropriate department or appointing authority if the County officer or employee is subject to the jurisdiction of any state law or collective bargaining agreement which provides for conduct of disciplinary proceedings. When such matter is referred to such department or appointing authority, the department or appointing authority shall consult with the Board before issuing a final decision.

(6) If the Board determines, by clear and convincing evidence and by a two-thirds (2/3) vote of its members, after a hearing or the opportunity for a hearing, that a County officer or employee has violated this County Ethics Law, it shall, after consultation with the head of the department or appointing authority for the officer or employee, issue an order either imposing such penalties as provided for by this County Ethics Law as it deems appropriate or recommending such penalties to the head of the department or appointing authority. The Order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the department or the appointing authority shall report to the Board what action was taken.

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

(7) The Board's findings and conclusions and Order shall be provided to the County Officer or Employee. A copy shall also be provided to the County Officer or Employee’s Supervisor or Department Head, where applicable. If it is determined that the person who was the subject of the hearing violated this County Ethics Law the Board's findings and conclusions and Order shall be made public, at a minimum by inclusion in the Annual Report. If it is determined that the person who was the subject of the hearing did not violate this County Ethics Law the Board's findings and conclusions and Order shall not be made public, unless specifically requested by the person who was the subject of the hearing.

(8) The Board shall maintain an index of all persons found to be in violation of this County Ethics Law by name, office and date of order. The index and the determination of probable cause and orders in such cases shall be made available for public inspection and copying.

(9) Remedy Not Exclusive. Nothing contained in this section shall prohibit the appointing officer of a County officer or employee from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the Board from exercising its powers and duties under this County Ethics Law with respect to actions of any public servant.

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

#### E. Meetings of Board and Hearings by Board.

(1) Meetings of the Board shall conform to Article 7 of the Public Officers (Open Meetings) Law.

(2) Confidentiality of Hearings/Meetings relating to possible violation of Law. No meeting or proceeding or hearing of the Board of Ethics concerning a possible violation of this County Ethics Law by a County officer or employee shall be open to the public, except upon the written request of the officer or employee or as required by the provisions of Article 7 of the Public Officers

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

Law or by some other state or federal law or regulation.

F. Regulations For Adjudicatory Proceedings and Appeals. The Ulster County Legislature hereby adopts regulations governing the conduct of adjudicatory proceedings and appeals relating to the proceedings authorized herein, including the assessment of the civil penalties herein authorized, which are appended to this County Ethics Law as APPENDIX C. Such regulations shall provide for the due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act, but such mechanisms need not be identical in terms of scope.

G. Appointment of Hearing Officers. In January of each calendar year, the Board of Ethics shall select a panel of five (5) individuals, licensed to practice law in the State of New York to serve as hearing officers during the calendar year.

H. Right to Counsel. Any person compelled to appear in person or who voluntarily appears before the Board of Ethics shall be accorded the right to be accompanied, represented by, and/or advised by counsel or such other person as may be provided by a collective bargaining agreement with Ulster County applicable to such person.

I. Other Powers of Board. In addition to other powers and duties provided for herein, the Board:

- (1) May make recommendations with respect to the County Ethics Law or amendments thereto upon its own motion or upon the request to the Ulster County Executive, the Ulster County Legislature, or both;
- (2) Shall promulgate rules and regulations governing its own organization and procedures, except as prescribed herein;
- (3) Shall maintain records of its opinions and proceedings. Copies of all rules and regulations promulgated by the Board and any and all amendments thereto which may be adopted from time to time shall be filed with the Clerk of the Ulster County Legislature and County Attorney within 10 days of their adoption;
- (4) Shall administer the provisions of this County Ethics Law;

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

(5) Shall review, index and maintain all annual disclosure statements filed with the Board of Ethics.

(6) Shall prepare and submit an annual report to the Ulster County Executive and Legislature summarizing the activities of the Board of Ethics, listing any recommended changes to the text or administration of this County Ethics Law.

(7) Shall provide for public inspection of certain records. The records of the Board of Ethics, which shall be available for public inspection, are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by other state or federal law or regulation.

**J. Waiver.**

(1) A County officer or employee may apply for a waiver request from any of the standards set forth herein upon a showing of compelling need, except as set forth herein in subdivision (2).

(2) NO WAIVER SHALL BE GRANTED FROM THE FILING OF THE ANNUAL DISCLOSURE STATEMENT.

(3) The Board of Ethics shall acknowledge receipt of the waiver request within 5 business days of said receipt. The Board of Ethics shall endeavor to render its decision to grant or deny the waiver within ten business days from the date in which the Board of Ethics determines that it has received sufficient information to render its decision. The Board of Ethics may grant a waiver of all or of part of any such request. The request for a waiver shall be deemed abandoned if the County officer or employee fails to provide such information within the time frames established by the Board of Ethics.

(4) A waiver request form will be available from the Secretary of the Ethics Board.

**K. Referral by Local Boards.** Referral by Local Board to Board of Ethics. The Board shall not act with respect to officers and employees of any municipality located within the County or agency thereof where such municipality has established its own Board of Ethics, except that the local board may, at its option, refer matters to the County Board.

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

**SECTION 5. STANDARD OF CONDUCT OF ALL COUNTY OFFICERS AND EMPLOYEES.**

A. General prohibition.

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

B. Recusal by Officers and Employees.

(1) A County officer or employee shall promptly recuse themselves from acting on a matter before the County when knowingly acting on the matter, or knowingly failing to act on the matter, may cause a direct or indirect pecuniary or material benefit to:

- a. such person;
- b. the Outside Employer, business, or prospective employer of such County officer or employee;
- c. the Outside Employer, business, or prospective employer of ~~an relative~~ ~~or~~ immediate family member of the County officer or employee; ~~an relative~~ ~~or~~ immediate family member; a customer or client of any such person.

C. Representation. No County officer or employee shall appear as attorney or counsel against the interest of the County in any litigation in which the County is a party, ~~or in any action or proceeding in which the County~~, or any ~~other~~ County officer or employee, acting in the course of official duties, is a party. This section shall not prohibit a county officer or employee from representing themselves in any action against the County of Ulster. This section shall not apply to an elected official representing themselves, in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of their capacity as an elected official. This section shall not apply to an elected official who represents themselves in an election law



## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

matter. For county officers who are not county employees, this prohibition shall apply only to the department or agency served by the county officer. This section may be waived in accord with the New York Rules of Professional Conduct.

D. Appearances. A county employee shall not appear before any agency or department of the County except on the individual’s own behalf or on behalf of the County or on behalf of the individual’s constituent(s) in the case of an elected official or attorney therefore. A county officer shall not appear before the department or agency served by the county officer of the county except on the individual’s own behalf or on behalf of the County or on behalf of the individual’s constituent(s) in the case of an elected official or attorney thereof. This section shall not apply to appearances before Ulster County courts.

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

(1) No County officer or employee with actual authority to cause the hiring of any person shall participate in any decision to hire any immediate family member and/or member of the household, excluding hires made pursuant to civil service examinations.

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

(3) Definition of “immediate family member” expanded for Anti-Nepotism. Every county officer and employee related equal to or closer in degree, by blood or marriage, than first cousin, and members of the household, to any person(s) seeking a contractual relationship with the County or seeking employment within any department, section or function of the County shall promptly disclose such relationship upon learning of such relationship or the seeking of such relationship.

(4) The disclosure requirements of this section shall be made in writing, directed to the Chair of the Board of Ethics, and shall be made upon learning of such

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

relationship or the seeking of such relationship. The disclosure requirements shall also be provided to the relevant department head/supervisor.

F. Prohibition on Acceptance of Gifts. A County officer or employee shall not accept or solicit any gift or gifts having an aggregate value of \$75 or more in any twelve month consecutive period from the same individual or entity, nor shall a County officer or employee accept or solicit any gift or financial benefit under circumstances in which it could reasonably be inferred that the gift was intended to influence such county officer or employee in the performance of the individual’s official duties or was intended to be a reward for any official action by the individual;

(2) The following are excluded from the definition of a gift:

a. complimentary attendance, at a value greater than \$75, including food and beverage, at bona fide charitable or political events, provided that such value shall be disclosed on the Annual Statement of Financial Disclosure Form;

b. complimentary attendance, food and beverage offered by the sponsor of a widely attended event. The term “widely attended event” shall mean an event which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the public official serves attend or were, in good faith, invited to attend, and which is related to the attendee's duties or responsibilities or which allows the public official to perform a ceremonial function appropriate to ~~his or her~~ their position. For the purposes of this exclusion, a public official's duties or responsibilities shall include but not be limited to either:

i. attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting; or

ii. for elected public officials, or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend, are residents of the county, district or jurisdiction from which the elected public official was elected;

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

c. awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;

d. an honorary degree bestowed upon a public official by a public or private college or university or school;

e. promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;

f. goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a public official and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;

g. gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered:

i. the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged;

ii. whether the item was purchased by the donor; and,

iii. whether or not the donor at the same time gave similar items to other public officials; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

business expense or seeks reimbursement from a client;

h. contributions reportable under Article 14 of the Election Law, including contributions made in violation of that article of the Election Law;

i. travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event or informational meeting when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus provided, however, that the public official may only accept lodging from an institution of higher education:

(A) at a location on or within close proximity to the host campus;  
and

(B) for the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event or meeting;

j. provision of local transportation to inspect or tour facilities, operations or property located in New York State or in an adjoining state, provided, however, that such inspection or tour is related to the individual's official duties or responsibilities and that payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision;

k. meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants;

l. food or beverage valued at twenty (\$20.00) dollars or less and in no event shall the total value of such food or beverage exceed seventy-five (\$75.00) in any twelve-month consecutive period from the same individual or entity; and

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

m. payment by any for-profit, non-profit association or organization which the County Officer or Employee receives professional training or assistance from and is directly related to their position or duties; by way of example and not limitation, if the New York State Association of Counties provides a partial or whole payment for a County Officer or Employee to attend a seminar, meeting, or training session, the same is not a gift.

n. professional advice with respect to issues that come before the County of Ulster, which has a monetary value.

Nothing herein shall permit the acceptance of any travel costs, services, or reimbursement thereof without permission from the County Executive or such other County Officer or Employee based on personnel or other policies of the County.

G. Political solicitation. No County officer or employee shall directly or indirectly, use their authority or official influence to compel or induce any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

H. Maintenance of Confidential information. The New York State Freedom of Information Law (Public Officers Law § 87, Subdivision 2) describes information that is not required to be released under the Freedom of Information Law. This description should guide County employees and officers as to the information that may be considered confidential. Confidential information under this County Ethics Law does not exceed the bounds for confidential information set by Public Officers Law § 87, Subdivision 2. Before a County employee or officer discloses information that may be considered confidential, the individual is encouraged to seek a written determination from the Department’s Records Access Officer. The Department’s Records Access Officer may seek an opinion from the County Attorney or his/her designee prior to making a determination.

The restrictions on disclosure and use of confidential information described herein apply without regard to the circumstances in which the information was acquired and include information gained through means other than the possessor's association with the County.

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

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

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

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

L. Related Prohibitions. No officer or employee shall take action or participate in any manner whatsoever in an official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Ulster or any agency thereof in which the official or employee, an immediate family member, or member of household has or will have an interest, direct or indirect, in such contract or professional dealings.

**SECTION 6. PROHIBITION OF INTEREST IN CONTRACTS WITH COUNTY.**

A. Prohibited interests.

(1) No County officer or employee shall have an interest in a contract with the County, or an interest in a bank or trust company, that is prohibited by New York State General Municipal Law § 801.

(2) Unless the contract is required by law to have been so awarded, a contract entered into between the County and the Prospective Employer or Outside Employer of any person who appropriated funds for such contract, other than as part of the adopted annual County budget, or any employee who

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

recommended such contract or approved such contract shall be null, void, and wholly unenforceable.

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

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

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

#### B. Disclosure of interest.

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

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### A Local Law Entitled “Ulster County Ethics Law”

##### SECTION 7. ANNUAL DISCLOSURE.

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

A. County officers, employees, and contractors required to file disclosure statement.

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

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

C. Any person who shall become a candidate for the office of any elected official of Ulster County. **The Ulster County Board of Elections shall provide the Ulster Count Personnel Department with a list of individuals who have filed designating and/or nominating petitions within seven (7) days of the filing. A copy of the Ulster County Ethics Law and Statement of Financial Disclosure form shall be made available to the candidate by the personnel Department within seven (7) days of receipt of the list.** The disclosure form shall be filed by the candidate within **fourteen (14) days after receiving the disclosure form.** ~~the filing of the nominating petitions of said candidate.~~

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

(1) Within 60 days of taking office; and,



## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

(2) No later than May 1 of each year thereafter.

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

F. Contents of annual disclosure statements and waiver request forms. The County Legislature shall have the power and authority to promulgate and amend the form from time to time by local law as provided for in and in conformity with § 811 or other applicable provisions of General Municipal Law. The Board of Ethics shall have the power and authority to promulgate and amend the waiver request form from time to time and provide a copy of same to the Ulster County Legislature. All such forms shall be posted on the Board of Ethics webpage.

G. The annual disclosure form shall be acknowledged and notarized and in substantially the form which is annexed hereto and made a part hereof as Appendix B.

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

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

I. Good faith efforts. Failure to disclose the information required by Subsection A of this section with respect to a County officer’s or employee’s spouse or member of the household or other person as required by this local law shall not constitute a violation of the subsection if the officer or employee has made a good faith effort to obtain the information and if those efforts are set forth in the individual’s annual disclosure statement.

J. Distribution of disclosure form. On or before the first day of March of each year, beginning with the year 2023 and thereafter, the Chair of the Board of Ethics shall

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

cause the annual statement of financial disclosure to be distributed to those persons required to file the same. The Chair of the Board of Ethics may request the assistance of the Personnel Director, provided the County Executive concurs with the same, in causing such dissemination to occur.

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

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

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

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

**SECTION 8. PENALTIES FOR OFFENSES.**

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

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

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

D. Disciplinary action. Any County officer or employee who violates any provision of the County Ethics Law may be warned, reprimanded, suspended, or removed from

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

office or employment, and/or be subject to any other sanction authorized by law or collective bargaining agreement by the appointing authority or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal or other authorized sanction may be imposed in addition to any other penalty contained in this section or in any other provision of law.

#### **SECTION 9. FUTURE EMPLOYMENT.**

Employment Solicitation. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for personal benefit when such employment or service creates a conflict or impairs the proper discharge of the individual’s official duties.

A. Six Month Restriction for Appropriators or Authorizers. No County officer or employee responsible for appropriating funds for the effectuation of, or negotiating or authorizing a contract or signing a contract may ask for, pursue or accept a private post-government employment opportunity with any person or entity who actually received such contract while the matter is pending or within 180 days following the final disposition of the matter. Appropriating funds for the effectuating of a contract shall relate to a specific matter, not voting generally on the annual County budget.

B. Two Year Restriction. Unless requested in writing by the County Executive or Chair of the Ulster County Legislature, no County officer or employee, for the two-year period after serving as a County officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or agency for which the individual serves. The exercise of discretion does not relate to ministerial matters.

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

(1) An appropriating, negotiating or contracting person on behalf of the County had no direct involvement with the selection of the contractor or that the involvement was limited to issuing an approval of or appropriation for a recommended contractor that the approver or appropriator was not otherwise involved with the selection of; or

## Proposed Local Law Number 2 Of 2022

### County of Ulster

#### **A Local Law Entitled “Ulster County Ethics Law”**

(2) The restrictions set forth in this Section 9 would create a financial hardship for the County officer or employer.

(3) The person seeking the waiver shall demonstrate their entitlement to it by clear and convincing evidence presented to the Board of Ethics.

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

#### **SECTION 10. JUDICIAL REVIEW.**

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

#### **SECTION 11. TRAINING.**

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

#### **SECTION 12. SUPERSESSION OF STATE LAW.**

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

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

**SECTION 13. CONSTRUAL OF PROVISIONS.**

A. No existing right or remedy (including employees’ rights provided for in collective bargaining agreements) shall be lost, impaired, or affected by reason of the County Ethics Law.

B. Nothing in the County Ethics Law shall be deemed to bar or prevent a present or former County officer or employee from timely filing any claim, account, demand, or suit against the County on behalf of themselves or any member of their family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. If any provision of the County Ethics Law is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of the County Ethics Law.

**SECTION 14. DISTRIBUTION AND POSTING.**

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

B. Within 90 days after the effective date of the County Ethics Law and thereafter as appropriate, the Board of Ethics shall transmit to the Clerk of the Legislature, in a form suitable for distribution, copies of those provisions of this County Ethics Law which the Board of Ethics deems necessary for distribution to the officers and employees of the County. Within 30 days after receipt of those copies, the Clerk of the Legislature, with the assistance of the Personnel Director shall cause the copies to be distributed to every officer and employee of the County and made readily available to the public. Every County officer or employee elected or appointed thereafter shall be furnished a copy of those provisions upon entering upon the duties of the individual’s position.

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

C. Failure of the County to comply with the provisions of this section or failure of any County officer or employee to receive a copy of those provisions of the County Ethics Law shall have no effect on the duty of compliance with the County Ethics Law or on the enforcement of its provision

**SECTION 15. AMENDMENTS TO ULSTER COUNTY CHARTER AND ADMINISTRATIVE CODE.**

Charter §§ 105 - 107, and the corresponding Administrative Code §§ 33-1 – 33-3 are hereby amended and replaced as follows:

§ C-105 (AC Section 33-1) Purpose and intent.

Ethical conduct by public officers and employees assures public confidence in County government. In addition to and not in any way in conflict with germane provisions of Article 18 of the General Municipal Law of New York State or any other general or special state law relating to ethical conduct and interest in contracts of municipal officers and employees, this Article, the Ulster County Ethics Law (Code Chapter 44), and attendant provisions of the County Administrative Code provide rules of ethical conduct for the officers and employees of the County of Ulster and methods for assuring adherence to them.

§ C-106 (AC Section 33-2) Prior Board Dissolved.

The Board of Ethics as provided for in Ulster County Charter § C-106 and Administrative Code § A33-2 as Amended 8-14-2012 by L.L. No. 9-2012 shall be dissolved and re-established under the terms and conditions provided for by Local Law \_\_ of 2019, the “Ulster County Ethics Law” (Code Chapter 44).

§ C-107 (AC Section 33-3) Membership, Qualification, Term of Office, Vacancies,

Removal, Compensation, Hiring of Staff and Consultants, Organization and Meeting Requirements, Powers and Duties of the Board of Ethics as re-established by Local Law \_\_ of 2019, the “Ulster County Ethics Law”.

Membership, Qualification, Term of Office, Vacancies, Removal, Compensation, Hiring of Staff and Consultants, Organization and Meeting Requirements, and Powers

**Proposed Local Law Number 2 Of 2022**

**County of Ulster**

**A Local Law Entitled “Ulster County Ethics Law”**

and Duties of the Board of Ethics as re-established by **Local Law XX of 2022**, the “Ulster County Ethics Law” (Code Chapter 44) shall be governed by the terms of the said Local Law \_\_ of 2019, the “Ulster County Ethics Law” (Code Chapter 44).

**SECTION 16. SEVERABILITY.**

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

**SECTION 17. EFFECTIVE DATE.**

This Local Law shall take effect January 1, 2023.



## APPENDIX "A"

### ULSTER COUNTY GOVERNMENT POSITIONS SUBJECT TO ETHICS LAW FINANCIAL DISCLOSURE

#### EXECUTIVE

Executive

Deputy Executives

**Assistant Deputy Executives**

**Director of Research & Operation Programs**

#### LEGISLATURE

Legislators

Clerk of the Legislature

Deputy Clerks

Counsel to the Legislature

Minority Counsel

#### DISTRICT ATTORNEY

District Attorney

Assistant District Attorneys

**Senior Consumer Advocate**

~~Deputy Director of Consumer Affairs~~

#### DEPARTMENT OF PUBLIC DEFENDER

Public Defender

Deputy and Assistant Public Defenders

#### ASSIGNED COUNSEL

**Assigned Counsel**

**Assigned Counsel Administrator**

#### COMPTROLLER

Comptroller

Deputy Comptrollers

**Director of Internal Audit and Control**

Senior Auditor

Auditors

#### DEPARTMENT OF FINANCE

Commissioner of Finance

Deputy Commissioners of Finance

**Director of Recovery & Resilience**

**Deputy Director of Recovery & Resilience**

**DEPARTMENT OF BUDGET AND INNOVATION**

**Director**

**Deputy Directors**

DEPARTMENT OF PURCHASING

Director of Purchasing

Deputy Directors of Purchasing

**DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Director**

**Deputy Directors**

REAL PROPERTY TAX SERVICE AGENCY

Director

Deputy Directors

COUNTY CLERK

County Clerk

Deputy County Clerks

**Senior** Motor Vehicle Supervisors

COUNTY ATTORNEY

County Attorney

Assistant County Attorneys

DEPARTMENT OF PERSONNEL

Personnel Director

Deputy Personnel Directors

BOARD OF ELECTIONS

Commissioners

Deputy Commissioners

DEPARTMENT OF PUBLIC WORKS

Commissioner of Public Works

Deputy Commissioners of Public Works

Buildings and Grounds Administrative Manager

Highways and Bridges **Supervisors** (*formerly listed as Highways and Bridges Administrative Manager*)

DEPARTMENT OF PUBLIC TRANSPORTATION  
Director of Public Transportation  
Deputy Directors of Public Transportation

DEPARTMENT OF INFORMATION SERVICES  
Information Services Director  
Deputy Information Services Directors  
Assistant Director I.S./Application Development  
Assistant Director I.S./Technical Support  
~~Assistant Director I.S./Operations~~  
**Project Director, Constituent Service Navigator**

INSURANCE DEPARTMENT  
County Insurance Officer  
Deputy Insurance Officers

SHERIFF  
Sheriff  
Under Sheriff  
**Chief Civil Administrator**  
~~Head of Criminal Division~~  
Corrections Superintendent  
Warden

DEPARTMENT OF PROBATION  
Director  
Deputy Probation Directors

~~STOP DWI~~  
~~Coordinator~~  
~~Deputy Coordinators~~

FIRE COORDINATOR  
Fire Coordinator  
Deputy Coordinators

DEPARTMENT OF EMERGENCY COMMUNICATIONS/  
EMERGENCY MANAGEMENT  
Director  
Deputy Directors

DEPARTMENT OF HEALTH

Commissioner of Health

~~Deputy Commissioner~~

**Deputy Director of Administration**

Director of Patient Services

Medical Examiner

Deputy Medical Examiners

~~Medical Consultant~~

**Director of Community Health Relations**

**Director of Emergency Preparedness**

**Director of Environmental Services**

**Director of Public Health Nursing Services**

DEPARTMENT OF MENTAL HEALTH

~~Director~~

Deputy Director of Administration

Commissioner of Mental Health

Deputy Commissioners of Mental Health

~~DEPARTMENT OF COMMUNITY CORRECTIONS~~

~~Director~~

~~Assistant Director~~

DEPARTMENT OF SOCIAL SERVICES

Commissioner of Social Services

Deputy Commissioners of Social Services

**Director of Finance**

**Director of Preschool/Early Intervention Services**

**Director of Social Services Programs**

**Director of Temporary Assistance**

**Medical Director**

DEPARTMENT OF EMPLOYMENT AND TRAINING

Director

Deputy Directors

VETERANS' SERVICE AGENCY

Director

Deputy Directors

WEIGHTS AND MEASURES

Director of Weights and Measures

Deputy Director of Weights and Measures

OFFICE FOR THE AGING

Director

Deputy Directors

YOUTH BUREAU

Director

Deputy Directors

DEPARTMENT OF PLANNING

Director

Deputy Directors

SAFETY DEPARTMENT

Safety Officer

Deputy Safety Officer

ULSTER COUNTY COMMUNITY COLLEGE

President

Vice President

Vice President of Administration (*formerly Dean of ...*)

Vice President of Academic Affairs (*formerly Dean of ...*)

~~Dean of Advancement & Continuing Education~~

College Attorney

COMMISSION OF HUMAN RIGHTS

Commissioner of Human Rights

BOARD OF ETHICS

Members of the Board of Ethics

PERIODIC COMPENSATION REVIEW COMMITTEE

Members of Periodic Compensation Review Committee

DEPARTMENT OF THE ENVIRONMENT

**Director** of the Department of Environment (*formerly Coordinator*)

Deputy **Directors** (*formerly Coordinators*)

DEPARTMENT OF TOURISM

Director of Tourism

Deputy Directors

~~TRAFFIC SAFETY~~

~~Coordinator~~

~~Deputy Coordinators~~

COUNTY HISTORIAN

County Historian

~~ULSTER COUNTY DEVELOPMENT CORPORATION~~

~~Members of the Ulster County Development Corporation~~

ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Chief Executive Officer or Director of the Agency

Members of the Agency

ULSTER COUNTY RESOURCE RECOVERY AGENCY

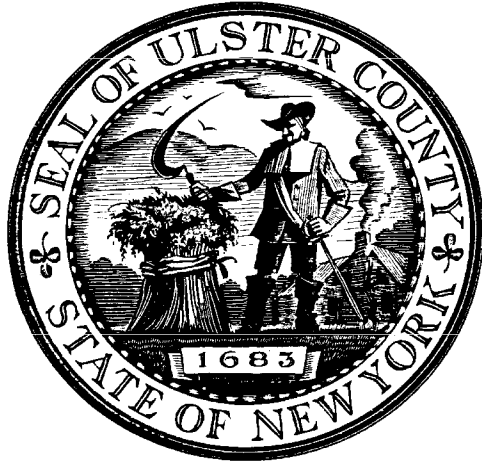
Chief Executive Officer or Director of the Agency

Members of the Agency

**ULSTER COUNTY ELECTRICAL LICENSING BOARD**

**Members of the Board**

APPENDIX "B"



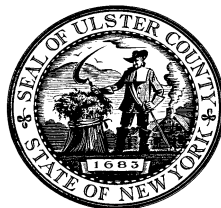
**COUNTY OF ULSTER**

**ANNUAL STATEMENT OF  
FINANCIAL DISCLOSURE FORM**

\_\_\_\_\_  
NAME (Please Print)

\_\_\_\_\_  
POSITION and DEPARTMENT

\_\_\_\_\_  
CALENDAR YEAR



**COUNTY OF ULSTER**  
**ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FORM**  
**FOR THE CALENDAR YEAR \_\_\_\_\_**

**Please print clearly and return to the Ulster County Legislature by May 1st**

\_\_\_\_\_  
Last Name

\_\_\_\_\_  
First Name

\_\_\_\_\_  
Middle Initial

\_\_\_\_\_  
Title/Capacity in which statement is required

\_\_\_\_\_  
Department/Agency in which this function reports

\_\_\_\_\_  
Work Address

\_\_\_\_\_  
Work Telephone Number

**1. Real estate ownership.** List the address of each piece of property within Ulster County or within one mile of the County's boundary that you, **or an immediate family member or member of household** own or have a financial interest in.

None (Check if appropriate)

Address of Real Estate

Type of Interest

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Outside employment/business.** List the name of any outside employer<sup>1</sup> from which you, an immediate family member, or member of household receive compensation for services rendered or goods sold or produced or of which you, an immediate family member, or member of household are a member of a board of directors, officer, or employee. Also include any entity in which you, an immediate family member, or member of household has an ownership interest, except a corporation with less than ten percent of the outstanding stock owned.

None (Check if appropriate)

Family Member

Name of Business/Employer

Relationship to Business

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> Outside employment includes the practice of law, a NYS Department of State licensed real estate broker or agent, or practice of a profession licensed by the Department of Education. If an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, provide a general description of principal subject areas of matters undertaken by the firm or corporation. Do not list names of individual clients, customers or patients.



**3. Income From County Employment.** Identify the source and nature of any income received from the County of Ulster in excess of \$1,000.00 per year for you, or an immediate family member or member of household during the reportable year. This, however, does not include any maintenance connected with a matrimonial action, alimony or child support payments.

None (Check if appropriate)

Name of Family Member/Member of Household

County Department/Division/Office

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**4. Other Income.** Identify the source and nature of any other income in excess of \$1,000.00 per year from any source not described above, including employment income, teaching income, lecture fees, consultant fees, contractual income, or other income of any nature, for you, an immediate family member, or member of household during the reportable year. This, however, does not include any maintenance connected with a matrimonial action, alimony or child support payments.

None (Check if appropriate)

Name of Family Member

Name & Address  
of Income Source

Nature of  
Investment

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
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 \_\_\_\_\_  
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 \_\_\_\_\_

**5. Immediate Family Member/Member of Household in Ulster County service.** List each relative who is an officer or employee of Ulster County, whether paid or unpaid, including relative's name, relationship to you, title, and department. Immediate family members or members of household include a spouse, un-emancipated child or person claimed as a dependent on the County officer's or employee's latest individual or joint state income tax return or unrelated persons who are continually or at regular intervals living or in the preceding calendar year continually or at regular intervals lived in the same household.

None (Check if appropriate)

Name of Relative

Relationship to You

Title

Department

\_\_\_\_\_  
 \_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_

**6. Money you owe.** List any debts of \$10,000 or more that you owe to an officer or employee of Ulster County or anyone that you are aware of who does business with Ulster County. Do not list debts that you owe to banking companies that have an official banking relationship with Ulster County.

None (Check if appropriate)

<u>Creditor</u>	<u>Type of Obligation</u>
_____	_____
_____	_____

**6 a. Money owed to you.** List any debts of \$10,000 or more that officers or employees of Ulster County or anyone that you are aware of who does business with Ulster County owes you.

None (Check if appropriate)

<u>Debtor</u>	<u>Type of Obligation</u>
_____	_____
_____	_____

**7. Interest in Contracts.** Describe any interest you, an immediate family member, or member of household have in any contract involving the County of Ulster.

None (Check if appropriate)

<u>Name of Family Member</u>	<u>Contract Description</u>
_____	_____
_____	_____

**8. Investments.** Itemize and describe all investments in excess of \$5,000.00 or five percent (5%) of the value in any business, corporation, partnership, or other assets including stocks, bonds, loans, pledged collateral, and other investments, for you, an immediate family member, or member of household excluding investments in publicly traded securities and interest in real property.

None (Check if appropriate)

<u>Name of Family Member</u>	<u>Name &amp; Address of Business</u>	<u>Description of Asset</u>
_____	_____	_____
_____	_____	_____

<u>Name of Family Member</u>	<u>Location of Real Estate (including home, if owned)</u>	<u>Description of Investment</u>
_____	_____	_____
_____	_____	_____

**9. Trusts.** Identify each interest in a trust or estate or similar beneficial interest in any assets in excess of \$2,000.00, except for IRS eligible retirement plans or interests in an estate or trust of a relative, for you, an immediate family member, or member of household.

None (Check if appropriate)

<u>Name of Family Member</u>	<u>Trustee/Executor</u>	<u>Description of Trust/Estate</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**10. Gifts and Honorariums.** List the source of all gifts aggregating in excess of \$75.00 received during the last year by you, an immediate family member, or member of household excluding gifts from a relative. The term "gifts" shall mean the giving of some item of value, or the use of income from property, without expecting to receive something of at least equal value in return. An interest free or reduced interest loan or the sale of an item for less than fair market value also constitute the making of a gift. "Gift" does not include campaign contributions authorized by law or other items or services otherwise excluded as gifts as provided for in Section 5F of the County Ethics Law.

None (Check if appropriate)

<u>Name of Family Member</u>	<u>Name &amp; Address of Donor</u>
_____	_____
_____	_____
_____	_____

**10 a. Complimentary Attendance.** List all complimentary attendance, as provided for in Section 5F of the County Ethics Law, at a value greater than \$75.00, including food and beverage, at bona fide charitable or political events received during the last year by you, an immediate family member, or member of household.

<u>Name of Family Member</u>	<u>Name &amp; Address of Donor</u>
_____	_____
_____	_____
_____	_____

**11. Loans.** Describe all loans to you, an immediate family member, or member of household in excess of \$5,000.00. This does not include any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances. If any such reportable loan has been guaranteed by any third party, list the liability and name of the guarantor.

None (Check if appropriate)

<u>Name of Family Member</u>	<u>Name &amp; Address of Creditor</u>	<u>Type of Loan &amp; Collateral, if any</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**12. Political Parties.** List any position you held as an officer of a political party, political committee or political organization within the last five (5) years. The term "political organization" includes any independent body or any organization that is affiliated with or a subsidiary of a political party.

None (Check if appropriate)

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**Certification:**

I hereby certify under penalty of perjury, that the information disclosed on this form is true and complete to the best of my knowledge.

I hereby acknowledge my continuing responsibility to disclose any conflicts of interest or potential conflicts of interest and/or rescue myself from any act or action as required by Ulster County's Ethics Law. I certify that I will undertake and carry out this responsibility to the best of my ability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

State of New York     }  
County of \_\_\_\_\_} ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
(Signature and Office of individual taking acknowledgement)

**The deadline for filing is May 1st.** Please return the completed form to the Ulster County Legislature at 244 Fair Street, 6<sup>th</sup> floor, Kingston, NY 12401.

## APPENDIX "C"

### REGULATIONS FOR ADJUDICATORY PROCEEDINGS

#### Sec.

1. Intent and Purpose Definitions
2. Definitions
3. Notice of Hearing or Proceeding
4. Time and Place of Hearing or Proceedings
5. Evidence and Proof
6. Representation
7. Oaths
8. Adjournments
9. Time Limits
10. Decision after Hearing
11. Conduct of Hearings
12. Hearing Officer
13. Powers and Duties of Hearing Officer
14. Fines, Penalties
15. Record of Hearing or Proceeding
16. Privacy/Confidentiality

#### 1. Intent and Purpose.

The Board of Ethics of Ulster County has statutory authority to follow rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to compliance with this local law and the conduct of hearings held thereunder.

These rules and regulations shall apply to all proceedings undertaken by the Board. Persons subject to the requirements of the law shall be entitled to receive an adjudicatory proceeding as to every action or decision as to them taken by the Board, including but not limited to extensions of time, waivers and/or exemptions from the disclosure requirement.

#### 2. Definitions.

- (a) "Board" shall mean the Board of Ethics established pursuant to Local Law No. \_\_\_ of 2019.

- (b) "Annual Statement" shall mean the annual statements of financial disclosure which are required to be filed with the Board pursuant to Local Law No. \_\_\_ of 2019.
- (c) "Hearing Officer" shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations, who shall be independent of the Board and of the County of Ulster, and shall be provided by the County Attorney.
- (d) "Hearing" shall mean an adjudicatory proceeding held by the Board to determine whether a violation of Local Law No. \_\_\_ of 2019 has occurred.

### **3. Notice of Hearing or Proceeding (form).**

- (a) Where the Board elects to go forward with a proceeding to determine compliance with the requirements of State and local law, or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least thirty (30) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:
  - (i) a statement of the time and place of the hearing or proceedings;
  - (ii) a statement of the nature of the hearing or proceeding;
  - (iii) a reference to the particular statutes and rules relevant to the hearing or proceeding;
  - (iv) a short, plain language statement of violations asserted, if any; and
  - (v) a statement for hearing impaired parties and participants concerning the provision of deaf interpretation services without charge.
- (b) A copy of these regulations shall accompany each Notice of Hearing or Proceeding which is sent pursuant to these regulations.
- (c) The Notice of Hearing or Proceeding shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.
- (d) The Notice of Hearing or Proceeding shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

#### **4. Time and Place of Hearing or Proceeding.**

- (a) The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.
- (b) The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8.
- (c) The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

#### **5. Evidence and Proof.**

- (a) The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.
- (b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.
- (c) The burden of proof shall be upon the Board of Ethics to establish by clear and convincing evidence the facts and findings which support its decisions, including but not limited to a finding that non-compliance with the requirements of law has had or will have a material bearing on the discharge of the official duties of the person subject thereto.
- (d) No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any party to the hearing or proceeding and as supported by and in accordance with substantial evidence.
- (e) Each party shall have the right of cross-examination.
- (f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.
- (g) All findings of fact shall be based exclusively on the evidence in record and on matters officially noticed.



- (h) In making its findings and decisions and carrying out its duties with regard to ensuring compliance with State and local ethics laws, the Board shall in every case evaluate whether any non-compliance by any person subject thereto affects in any manner the ability of such person to fully and faithfully carry out the responsibilities and duties of their position. Only if the Board finds by clear and convincing evidence that information required to be reported has a material bearing on the discharge of the reporting person's official duties, and that such information was willfully omitted or inaccurately reported, can the enforcement and punitive powers of the Board be exercised.

## **6. Representation.**

Any person compelled to appear in person, or who voluntarily appears in any hearing or proceeding conducted according to these rules, shall be accorded the right to be accompanied, represented, and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing or proceeding therein.

## **7. Oaths.**

- (a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.
- (b) Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to these rules.

## **8. Adjournments.**

- (a) Adjournments of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.
- (b) Written request for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

## **9. Time Limits.**

- (a) Under these rules, adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.
- (b) Parties to any hearing or proceeding are required to file all papers, statements, proofs, and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

## **10. Decision after Hearing or Proceeding.**

- (a) All final recommendations of the hearing officer and all decisions and determinations of the Board shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.
- (b) A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.
- (c) Except as required for the disposition of ex parte matters authorized by law, members or employees of the Board assigned to make a determination or decision, or to make findings of fact and conclusions of law in any hearing or proceeding, shall not communicate directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate. Any member or employee of the Board may communicate with other members or employees and may have the aid and advice of agency staff, other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or a factually related case.

- (d) The Board shall maintain the final decision or determination in any hearing or proceeding in a file with an index by name of party and subject matter. The index and the notice of civil assessment, if any, shall be made available for public inspection and copying except as provided in Section 16 of these rules. Each decision or determination shall be so filed and indexed within sixty (60) days after having been rendered.

## **11. Conduct of Hearings.**

The hearing officer, exercising discretion, may elect by a two thirds (2/3) vote of its members to conduct any hearing or proceeding under these rules ex parte after a showing that the party who is the subject of the hearing and its representative of record have been notified by certified mail of the pending hearing or proceeding or otherwise served with notice of the hearing. The party who is the subject of the hearing shall at no time be deprived of the opportunity to appear. However, if a party has been served with two (2) written notices of a hearing and fails to appear after each notice, the hearing officer, upon proof of service, shall have the authority to proceed with the scheduled hearing. Proof of service shall consist of a signed certified mail receipt or affidavit.

## **12. Hearing Officers.**

- (a) Conducting Hearings or Proceedings.

All hearings or proceedings under these rules shall be conducted by a hearing officer, retained and provided by the County Attorney, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute or local law, ordinance, or resolution, and these regulations. The hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

- (b) Selection of Hearing Officers.

Each year, the Board of Ethics shall select a panel of five (5) individuals, licensed to practice law in the State of New York to serve as Hearing Officers during the year. A hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

### **13. Powers and Duties of Hearing Officer.**

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned:

- (a) administer oaths and affirmations;
- (b) at the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue subpoenas under the Civil Practice Law and Rules;
- (c) provide for the taking of testimony by deposition;
- (d) regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;
- (e) direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and
- (f) prepare findings of fact and recommendations.

### **14. Fines, Penalties.**

- (a) At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen (15) days after the service of the hearing officer's findings and recommendations upon the parties. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the findings of fact and recommendation as expeditiously as possible. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.

- (b) The assessment of civil penalties under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges, except where the violation is imposed under General Municipal Law Section 812(6) for failure to file or a false filing of an annual statement.
- (c) If the alleged violated has been established, and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board in its discretion may take such other action as appropriate, including but not limited to a written admonition or a recommendation that disciplinary action be taken or a referral to a prosecutor for prosecution of criminal charges. The Board may forward a copy of such admonition or a recommendation for disciplinary action to the individual's appointing authority, as appropriate.

#### **15. Record of Hearing or Proceeding.**

- (a) The record in hearing or proceeding under these rules shall include:
  - (i) all notices, pleadings, motions, and intermediate rulings;
  - (ii) evidence presented;
  - (iii) a statement of matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
  - (iv) questions and offers of proof, objections thereto, and rulings thereon;
  - (v) proposed findings and exceptions, if any;
  - (vi) any findings of fact, conclusions of law, or other recommendations made by the hearing officer; and
  - (vii) any decision, determination, opinion, order, or report rendered.
- (b) The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board may use whatever means it deems appropriate, including but not limited to the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion, or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record or any part

thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested portions of the record and transcript within a reasonable time and furnish a copy to the requesting party at no charge.

#### **16. Privacy/Confidentiality.**

- (a) All records of the Board shall be subject to disclosure in accordance with the provisions of article six of the public officers law,
- (b) In accordance with Local Law No. \_ of 2019, all meetings or proceedings of the Board of Ethics shall be subject to the provisions of article seven of the public officers law,
- (c) Any information which would reveal confidential material protected by Federal or State statute shall be deleted from any final decision, order, determination, or declaration issued by the Board.

#### **17. Savings Clause.**

All matters commenced by written notice under the prior Ulster County Code of Ethics (Local Law No.11 of 2008, as amended) will be governed by the laws and adjudicatory rules in effect prior to the effective date of Local Law No. \_\_\_\_ of 2019 and will remain in full force and effect for the pendency of those matters. All investigations commenced after the adoption of Local Law No. \_ of 2019 will be governed by provisions of this Part.