

# Warren County Board of Supervisors

## RESOLUTION NO. 213 OF 2014

**Resolution introduced by Supervisors Taylor, Kenny, Sokol, Merlino, Dickinson, Girard, Vanselow, Wood and Simpson**

### **INTRODUCING PROPOSED LOCAL LAW NO. 3 OF 2014 AND AUTHORIZING PUBLIC HEARING THEREON**

RESOLVED, that proposed Local Law No. 3 of 2014 entitled “Warren County Ethics and Disclosure Law”, attached hereto and made a part hereof, be, and the same hereby is, introduced before the Warren County Board of Supervisors, and a public hearing shall be held at the Supervisors’ Room in the Warren County Municipal Center on the 16<sup>th</sup> day of May, 2014 at 10:00 a.m., on the matter of the adoption of said proposed Local Law No. 3 of 2014, and be it further

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

LOCAL LAW NO. 3 OF 2014

WARREN COUNTY ETHICS AND DISCLOSURE LAW

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**ARTICLE 1. PURPOSE**

The purpose of this law is to create the Warren County Ethics and Disclosure Law in compliance with Article 18 of the New York State General Municipal Law. The citizens of Warren County are entitled to the expectation of exemplary ethical behavior from their County officers, employees and appointed officials, and this law is intended to create the minimum standards, which constitute that behavior. At the same time, it is important to recognize that public service cannot require a complete divesting of all proprietary interests by public servants, or impose overly burdensome disclosure requirements, if the government is to attract and retain highly competent officers and employees. Although the assurance of ethical, conflict-free conduct will continue to rest primarily on the personal integrity of the officers and employees themselves, on their commitment to the public good, and on the vigilance of the citizenry, the establishment of, and adherence to, the standards and procedures set forth in this Ethics and Disclosure Law will serve to provide the highest caliber of public administration and foster increased confidence in public officials. By requiring public annual disclosure of interests that may influence or be perceived to influence the actions of government officials, by mandating ethics training for all government officials, and by

assuring the availability of legal advice about the propriety of proposed actions by government officers and employees, this law intends to facilitate the consideration of potential problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of the government to the people. Recognizing that the overwhelming majority of public servants are honest, this law focuses primarily on prevention, not punishment, and thereby seeks to promote both the reality and the perception of integrity and transparency in government.

The provisions of this Ethics and Disclosure Law apply in addition to all applicable State and local laws relating to conflicts of interest and ethics and any subsequent amendments thereto. This Local Law is enacted pursuant to Section 806 of the General Municipal Law of the State of New York and Section 10 of the Municipal Home Rule and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law or any subsequent amendments or modifications to Article 18 of the General Municipal Law. This Local Law also supplements other provisions of law regulating ethics and local government, such as Section 107 of the Civil Service Law of the State of New York.

In the event of any conflict or inconsistency between this Local Law and the provisions of Article 18 of the General Municipal Law or Section 107 of the Civil Service Law of the State of New York, the more restrictive provisions, or those imposing higher standards, shall govern and control.

**ARTICLE 2. DEFINITIONS**

Unless otherwise expressly stated or unless the context otherwise requires, the following terms are defined for the purpose of the Warren County Ethics and Disclosure Law:

1. "Agency" means any of the divisions of County government referred to in subdivision (d) of this section, except the Board of Supervisors.
2. "Appropriate body" or "Board" pursuant to Article 18 of General Municipal Law, means the Board of Ethics of the County of Warren.
3. "Confidential Information" means any record or other information in any format that is either:
  - (a) prohibited by federal or state law from disclosure to the public; or
  - (b) prohibited from disclosure by local law of the County and also exempt from mandatory disclosure under the New York State Freedom of Information Law ("FOIL") and the New York State Open Meetings Law.
4. "Child" means any son, daughter, step-son or step-daughter of a County Officer, employee or appointed official if such child is under 18 or is a dependent of the officer, employee or appointed official.
5. "Contract" means any claim, account or demand against or agreement with a municipality, 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, or other proceeding where such publication is required or authorized by law.

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6. “County” means the County of Warren or any department, board, executive division, institution, office, branch, bureau, commission, agency, legislature or other division or part thereof.

7. “Gift” means anything of value whether in the form of a service, license, permit, loan, entertainment or tickets, contract, authorization or any promise thereof or any other gratuity or promise thereof or anything of value.

8. “Government” means the Warren County Board of Supervisors, and includes all of its agencies, offices, departments, divisions, bureaus, boards, administrations, authorities, corporations, councils, commissions, and other units.

9. “Major campaign contributor” of a County officer or employee means any individual or entity that has made, in the aggregate during the preceding twenty-four (24) months, contributions of One Thousand Dollars (\$1,000) or more for the election of the County officer or employee to any public office.

10. “Ministerial act” means an administrative act, including the issuance of a license, permit, or other permission by the government, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

11. “Interest” means a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee, or his or her spouse, as the result of a contract with the municipality which such officer or employee serves. For the purposes of this article a municipal officer or employee, or his or her spouse, shall be deemed to have an interest in the contract of:

- (a) his or her spouse, children and dependents, except a contract of employment with the municipality which such officer or employee serves;
- (b) a firm, partnership or association of which such officer, employee or appointed official, or his or her spouse, is a member or employee;
- (c) a corporation of which such officer, employee or appointed official, or his or her spouse, is an officer, director or employee; and
- (d) a corporation of which the outstanding capital stock is owned or controlled directly or indirectly by such officer or employee or appointed official, or his or her spouse.

12. “Board of Supervisors” means the Warren County Board of Supervisors established under Article 4 of the New York State County Law.

13. “County Attorney” means the Warren County Attorney and his/her deputy County attorneys.

14. “County Officer” or “employee” means any officer or employee of the County, whether paid or unpaid, elected or appointed, full time or part time, or in an advisory capacity, and includes without limitation all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, branch, or committee of the County who occupy a policy making position. For purposes of Article 12, “County Officer” or “employee” includes current and former County officers or employees. “County Officer” or “employee” shall not include:

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- (a) Judge, justice, officer or employee of the Court System; or
- (b) Member of an advisory board of the County if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the County or to restrict the authority of the County to act. No entity established pursuant to General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this paragraph.

15. “County Elected Official” means a County Supervisor, the County Clerk, the District Attorney, the County Treasurer or the Sheriff.

16. “Appointed Official” means any individual who is appointed by the Chairman of the Board of Supervisors to any agency, institution, department, office, branch, division, council, commission, board or bureau, whether paid or unpaid.

17. “Legislature” means the Warren County Board of Supervisors.

18. “Board of Ethics” or “Board” means the Board of Ethics of Warren County established pursuant to Article 14 of this Local Law.

19. “Relative/immediate family member” means individuals who are related by blood, marriage or adoption including, but not limited to, spouse, domestic partner, child, stepchild, grandparent, grandchild, brother, sister, parent, legal guardian, foster child, niece, nephew or stepparent of the County officer or employee. In addition, any person claimed as a dependent on the latest income return.

20. “Reporting officer, employee or appointed official” means an officer, employee or appointed official who is required to complete and file an annual statement of financial disclosure pursuant to this Local Law.

21. “Subordinate” means a County officer or employee the work of whom one has the authority to directly or indirectly control or direct, or who has discretion to directly or indirectly control, direct or supervise, whether or not the two officers or employees stand in a direct reporting relationship to one another.

22. “Spouse” means the husband or wife of an officer, employee or appointed official subject to the provisions of this Local Law unless legally separated from such officer, employee or appointed official.

23. “Domestic Partner” means a person who is neither married nor related by blood or marriage to the County officer or employee; it is the County officer or employee's sole spousal equivalent; lives together with the County officer or employee in the same residence and intends to do so indefinitely; is responsible with the County officer or employee for each other's welfare.

24. “Jurisdiction” shall mean having the authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the County agency (as defined above at Article 2, Section 1) in which she or he is an officer, employee or appointed official (as defined above at Article 2, Sections 12 and 14).

25. "Policy-Making position" means an officer or employee who is designated to be "policy-making" by the County Legislature and whose major duties are not ministerial in nature.

**ARTICLE 3. CODE OF ETHICS**

**I. General Standards:**

A. Warren County officers, employees, elected and appointed officials shall in all actions conduct themselves in accordance with the following ethical principles and standards:

1. A County officer, employee or elected official shall serve the people of Warren County and uphold the rule of law, always seeking to promote effective and democratic government.

2. A County officer, employee or elected official shall demonstrate a dedication to the highest ideals of honor, honesty, and integrity, thereby promoting public confidence in the honor, honesty, and integrity of the government.

3. A County officer, employee or elected official shall make decisions and act solely on the basis of merit, with fairness and impartiality and in conformity with the law, and, except as provided by law, shall give no preference to anyone because of their wealth, position, or status or because of their relationship to the County officer or employee personally.

4. A County officer, employee or elected official shall impress upon all with whom the County officer or employee deals with that the County officer or employee performs his or her duties free of improper influence.

5. A County officer, employee or elected official shall show respect to the public, to his or her superiors, subordinates, and co-workers, and to all with whom the County officer or employee deals with.

6. A County officer, employee or elected official shall give a full day's work for a full day's pay.

7. A County officer, employee or elected official shall maintain confidential information to which the County officer or employee is privy as a result of his or her government position and shall never use or disclose that information for personal gain or private purposes.

8. A County officer, employee or elected official shall conserve public resources.

9. A County officer, employee or elected official shall make no private promises in carrying out his or her official duties, as his or her position is a public one.

10. A County officer, employee or elected official shall never solicit any gifts or favors and shall accept no gifts or favors that might compromise, or appear to compromise, his or her independence as a public servant.

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11. A County officer, employee or elected official shall refrain from any personal, private, financial, business, or political activities that might undermine the public's confidence in the government and shall never use his or her official position for private gain.

12. A County officer, employee or elected official shall so conduct his or her private investments, private employment, and personal relationships and actions that they will never be in conflict with his or her official duties.

13. A County officer, employee or elected official shall resist any attempts by anyone to undermine the professionalism, honesty, and integrity of public service.

14. A County officer, employee or elected official shall promptly inform the appropriate authority and Board of Ethics of any interests or actions by anyone that violates these principles.

15. A County officer, employee or elected official may not take any action or have any position or interest that conflicts with his or her government duties.

16. A County officer, employee or elected official may not cause, try to cause, or assist another officer or employee of the government to do anything that would violate any provision of this Ethics Code.

17. A County officer, employee or elected official shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

18. A County officer, employee or elected official shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

19. A County officer, employee or elected official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

**II. Additional Conflict of Interest Standards:**

B. It is the policy of the County Board of Supervisors that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an officer or employee has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. All County officers and employees shall comply with the following Ethics Code.

1. Misuse of office. A County officer or employee may not take an action or fail to take an action as a government officer or employee if doing so might financially benefit

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- (a) him or herself; or
- (b) a relative; or
- (c) any person or entity for which a County officer or employee is an attorney, agent, broker, employee, officer, director, trustee, or consultant; or
- (d) any person or entity with which a County officer or employee has a financial relationship; or
- (e) any person or entity with which a County officer or employee had a financial relationship during the previous twelve (12) months; or
- (f) any person or entity from which a County officer or employee received a gift, or any goods or services for less than fair market value, during the previous twelve (12) months; or
- (g) any person or entity that was a major campaign contributor during the previous twenty-four (24) months.

2. Misuse of government resources.

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

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

- (1) any use of municipal resources authorized by law or municipal policy;
- (2) the use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
- (3) the occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.

(c) No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel and must otherwise abide by all terms and conditions of the Warren County Travel Policy.

3. Gifts.

(a) No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.

(b) No municipal officer or employee may directly or indirectly solicit any gift.

(c) No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars (\$75) or more when:

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- (1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
- (2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
- (3) the gift is intended as a reward for any official action on the part of the officer or employee.

(d) The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. A determination of whether multiple gifts from a single donor exceed Seventy-Five Dollars (\$75) must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

- (e)
  - (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
  - (2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve (12) months.
- (f) This section does not prohibit any other gift, including:
  - (1) gifts made to the municipality;
  - (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
  - (3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
  - (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
  - (5) awards and plaques having a value of Seventy-Five Dollars (\$75) or

less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

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

(g) The County Officer or employee also may not buy goods or services for less than fair market value from any of these persons or entities.

4. Compensation. A County officer or employee may not request or accept any thing from any person or entity other than the government for doing his or her government job.

5. Solicitation of subordinates. A County officer or employee may not knowingly ask, directly or indirectly, a subordinate to make contributions to any person, entity, or campaign or to do any political activity.

6. Coercive political solicitation. A County officer or employee may not use his or her government position to make threats or promises for the purpose of trying to get anyone to do any political activity or make a political contribution.

7. Political solicitation of vendors, contractors, and licensees. A County officer or employee may not ask any person or entity that he or she knows, or could reasonably learn, does or intends to do business with the government or has or is seeking a license, permit, grant, or benefit from the government and a County officer or employee may not ask any person he or she knows, or could reasonably learn, has done business with the government during the previous twelve months to make any political contribution or to do any political activity.

8. Political activity by high-level officials. If a County officer or employee is an elected government official he or she may not directly or indirectly ask any County employee to contribute to the political campaign of a County officer or employee running for public office or to the political campaign of anyone running for elective government office.

9. Confidential information. A County officer or employee may not disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest or use it for any non-government purpose, even after the County officer or employee leaves government service.

10. Prohibited outside positions. A County officer or employee may not be an attorney, agent, broker, employee, officer, director, trustee, or consultant who will receive a direct personal benefit or direct financial gain for anyone that the County officer or employee knows or should know is doing business or seeking to do business with the government.

11. Future employment.

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(a) No County officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the County officer or employee, either individually or as a member of a board, while the matter is pending or within the thirty (30) days following final disposition of the matter.

(b) No County officer or employee, for the one-year period after serving as a County officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

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

12. Prohibited ownership interests. A County officer or employee may not own any part of a business or entity that the County officer or employee knows, or could reasonably learn, is doing business or seeking to do business with the government or that the County officer or employee knows, or could reasonably learn, has or is seeking a license, permit, grant, or benefit from the government nor may his or her spouse nor may any of his or her children who are less than eighteen (18) years old. Exclusion: An ownership interest or the dealing with the government otherwise prohibited shall not create a conflict of interest if determined by rule of the Board of Ethics upon application.

13. Lawyers and experts. A County officer or employee may not be a lawyer or expert against the government's interests; nor may a County officer or employee receive anything from anyone to act as a lawyer or expert against the government's interests. A County officer should not encourage or promote legal action against the government.

14. Purchase of office. A County officer or employee may not give or promise to give anything to any person or entity for being elected or appointed to government service or for receiving a promotion or raise.

15. Hiring and supervision of relatives – Nepotism. No person shall be appointed or employed or continued to be employed in any position in Warren County if the appointment, employment or continued employment cause the employee to come under the supervision of a relative, either directly, indirectly or through a chain of authority, and no officer or employee of the County shall hire or induce others to hire, directly, indirectly or through a chain of authority, a relative of such officer or employee nor shall any officer or employee of the County directly supervise, evaluate or audit the work of any relative employed by the County except:

- (a) as required by the Civil Service Law or rules promulgated there under; or
- (b) pursuant to a supervisory arrangement that began prior to the effective date of this local law; or
- (c) pursuant to the procedures identified herein.

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- (d) with the written approval of the Board of Ethics reviewed and approved by the Warren County Attorney with prior notification to be provided to the Board of Supervisors. In determining whether to approve the request of an officer or employee to hire or supervise a relative, the Board of Ethics shall consider, among other things, the benefits to the County, the nature of the relationship at issue and any steps that have been taken to ensure objectivity in any such hiring decision, salary determination, evaluations, recommendations for promotions and increases and other aspects of a supervisory relationship. Neither such request for Board approval nor the determination of the Board shall be confidential. Nothing in this subdivision, nor any approval issued by the Board pursuant to this subdivision, shall relieve an employee of the continuing requirement to exercise his job duties in the best interests of the County, without giving raises, promotions or other beneficial terms or conditions of employment based on private interests or personal relationships, and the Board may continue to enforce such requirement, as it deems appropriate, whether or not it has approved the hiring or supervision of a relative.
- (e) In the event a County officer or employee proposes to hire a person or wishes to continue to employ a person in a position that would fall under the administrative supervision of anyone to whom the person is related, as specified herein, such person shall request written approval of such appointment or continuation, which request shall include an alternative procedure for supervision, salary determination, evaluation, recommendations for promotion and other aspects of the supervisory relationship.
- (f) When two existing employees marry or begin cohabitating, and a determination has been made that the potential for creating adverse impact as described above exists, the Department Head, in conjunction with the Personnel Officer, shall make reasonable efforts to minimize problems of supervision, safety and security through reassignment of duties, relocation or transfer. A proposed plan shall be submitted to the Board of Ethics for review and approval.
- (g) The decision of the Board of Ethics relative to the hiring or supervision by an officer or employee of a relative may be reversed, overruled, changed or overridden by a majority vote of the Board of Supervisors.

16. Avoidance of conflicts. A County officer or employee may not knowingly request, negotiate for, or accept any interest, employment, or thing that would result in a violation of this Ethics Code.

17. No County employee employed on a full-time basis nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the County in which such employee

serves or is employed.

18. Each County employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation or other official matters pending before the County Board of Supervisors pursuant to Article 5.

19. Conflicts of Interest Authority to Negotiate/Appoint. Except as provided in Section 802 of the New York State General Municipal Law (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he or she is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize payment thereunder, (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) No fiscal officer, treasurer or his or her deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the municipality of which he or she is an officer or employee.

No municipal officer or employee whose service to a municipality includes rendition of professional services requiring admission to the practice of law shall (a) have an interest in any contract for rendition of legal services to the municipality, or (b) compensate any person or organization from his or her personal resources to render legal services to the municipality. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

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

21. Investments in conflict with official duties.

- (a) No County officer or employee may acquire the following investments:
  - (1) investments that can be reasonably expected to require more than sporadic recusal and abstention under Article 5 of this code; or
  - (2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- (b) This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
  - (1) real property located within the municipality and used as his or her personal residence;

- (2) less than five percent (5%) of the stock of a publicly traded corporation; or
- (3) bonds or notes issued by the municipality and acquired more than one (1) year after the date on which the bonds or notes were originally issued.

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

- (a) can be reasonably expected to require more than sporadic recusal and abstention pursuant to Article 5 of this code;
- (b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- (c) violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- (d) requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

Any employee accepting outside employment shall make arrangements with his outside employer to be relieved from his duties should he be called for an emergency by the County. Any employee accepting such employment shall agree to respond to any emergency should his or her department head determine it necessary. All employees sustaining injuries while performing outside employment are to report them to their immediate County supervisor prior to the next regularly scheduled work day.

23. Outside Interest Form. If any employee or immediate family member is currently or plans to be in the future an employee, Board member, consultant, owner, contractor or even a passive investor of an entity that engages in any business or maintains any relationship with the County; provides to or receives from the County any client referrals or competes with the County, they must fill out an Outside Interest Form. Attached hereto and made a part hereof as Appendix A is a sample copy of said Outside Interest Form.

**ARTICLE 4. EXCLUSIONS FROM THE ETHICS AND DISCLOSURE LAW**

- 1. This Local Law shall not prohibit, or require recusal as a result of:
  - (a) An action specifically authorized by a resolution or local law of the government or by a statute, rule, or regulation of the State or Federal Governments or lawfully undertaken pursuant to one's official duties; or
  - (b) A ministerial act; or

- (c) Receipt of government services or benefits, or use of government facilities, personally and individually that are generally available on the same terms and conditions to citizens or residents, or classes of citizens or residents, under housing or other general welfare legislation; or
- (d) Representation of constituents by elected officials without compensation in matters of public advocacy; or
- (e) Disclosure to a law enforcement agency of confidential government information concerning conduct that may involve waste, fraud, corruption, criminal activity, or a violation of this conflicts of interest law.

**ARTICLE 5. RECUSAL AND ABSTENTION**

All County officers and employees shall comply with the following provisions on disclosure and recusal.

1. No County officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative or any private organization in which he or she is deemed to have an interest. In such cases, the County officer or employee shall recuse himself or herself from participating or voting on the matter.

2. A member of the Board of Supervisors in his or her official capacity that might financially benefit one of the persons or entities set forth in Article 2, Sections (4)(9)(19)(21)(22)(23) hereof and/or any private individual or private organization, provided that the action and the relationship are not otherwise prohibited by the Ethics Code and further provided that the member, prior to acting on the matter, discloses the interest to the Board of Ethics and, in the case of matters before the Board of Supervisors on the official public records of the Board of Supervisors; or

3. Whenever a County officer or employee is required to recuse him or herself under this section, the County officer or employee shall:

- (a) Immediately stop participating further in the matter; and
- (b) Within five (5) business days inform his or her superior, if any, about the recusal; and
- (c) Within five (5) business days file a written statement with the Board of Ethics disclosing the nature and extent of the conflict of interest; or, if a County officer or employee is a member of the Board of Supervisors or of a board appointed by the Board of Supervisors, the County officer, employee or appointee shall also set forth his or her recusal on the official public record of the Board of Supervisors.

4. No one shall retaliate against a County officer or employee or take any adverse

personal action against a County officer or employee for complying with this section.

**ARTICLE 6. PRIVATE PERSONS AND ENTITIES**

1. Inducement of violations. No County officer or employee shall cause, attempt to cause, or help a government officer or employee to do anything that would violate any provision of the Ethics Code.

2. Appearances.

- (a) Subject to paragraph “c” of this subdivision, a person or entity for whom or for which a government officer or employee serves as a paid attorney, agent, broker, employee, officer, director, trustee, or consultant shall not communicate with the officer’s or employee’s government agency nor shall any business or entity of which a government officer or employee has ownership interest of five percent (5%) or more.
- (b) Subject to paragraph “c” of this subdivision, a person or entity for whom or for which a government officer or employee serves as a paid attorney, agent, broker, employee, officer, director, trustee, or consultant shall not communicate with any other agency of the government if the officer or employee has the authority to appoint any officer or employee of the agency or to review, approve, audit, or authorize any budget, bill, payment, or claim of the agency nor shall any business or entity of which a government officer or employee has ownership interest of five percent (5%) or more.
- (c) Nothing in paragraphs “a” or “b” of this subdivision shall be construed to prohibit the person, business, or entity from:
  - (1) Appearing on its own behalf, or on behalf of the government, before any agency of the government; or
  - (2) Seeking or obtaining a ministerial act; or
  - (3) Receiving a government service or benefit, or using a government facility, that is generally available to the public.

**ARTICLE 7. ANNUAL REVIEW OF WARREN COUNTY ETHICS AND DISCLOSURE LAW**

Every official and employee is required to attest on an annual basis that he or she has reviewed the Warren County Ethics and Disclosure Law, to be made on or before March 31<sup>st</sup> of the year for which the employment is in effect.

**ARTICLE 8. ANNUAL DISCLOSURE**

1. Officers and employees required to file. The classes of officers and employees of the government set forth below and as more particularly set forth on a list of such officers and employees adopted by resolution of the Board of Supervisors and as amended from time to time by resolution of the Board of Supervisors, shall be required to sign and file a signed annual disclosure statement pursuant to the General Municipal Law and the Board of Ethics shall receive, review for completeness and serve as the depository for such annual statements. The Board of Ethics shall also enforce such filing requirements. All officers and employees will comply with General Municipal Law Article 18 and any amendments or revisions relative to the filing of financial statements.

- (a) Elected officials; and
- (b) The heads of any agency, department, division, council, board, commission, authority or bureau of the government and their deputies and other persons authorized to act on their behalf who make policy decisions; and
- (c) Officers and employees who hold policymaking positions, including members of boards, commissions and public authorities of the government; A person shall be considered to hold a policymaking position if he or she meets the following criteria, based either on the powers and duties of the position held by the person as set forth in the job description or any applicable law or regulation, or based on the actual duties performed by the person:
  - (1) he or she has been determined to be managerial pursuant to Civil Service Law §201(7) because he or she formulates policy; or
  - (2) he or she is in the non-competitive class under §2.2 of the rules and regulations of the New York State Department of Civil Service, provided that the person holds a position that is designated in any applicable rules and regulations promulgated by the county civil service commission pursuant to Civil Service Law §20, on the basis that the position requires the performance of functions influencing policy; or
  - (3) he or she exercises responsibilities of a broad scope in the formulation of plans for the implementation of goals or policy for a county agency or acts as an advisor to an individual in such a position, and
- (d) Officers and employees having discretionary authority with respect to:
  - (1) Contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses; or
  - (2) The purchase, sale, rental, or lease of real property, personal property,

or services, or a contract therefore; or

- (3) The obtaining of grants of money or loans; or
- (4) Inspections; or
- (5) The adoption or repeal of any rule or regulation having the force and effect of law, and

2. Time and place for filing. Beginning January 1, 2015, annual disclosure statements shall be filed with the office of the County Attorney no later than the 31<sup>st</sup> of March each year.<sup>1</sup>

3. Notification. The Board of Supervisors shall annually cause to be filed with the Board of Ethics a list of the names and offices or positions of all government officers and employees required to file annual disclosure statements pursuant to Article 8 of this law and notify all such officers and employees of their obligation to file an annual disclosure statement by March 31<sup>st</sup> of each year.

#### **ARTICLE 9. MAINTENANCE OF DISCLOSURE STATEMENTS**

The Board of Ethics shall index and maintain on file for at least seven (7) years all transactional, applicant, and annual disclosure statements filed with the Board of Ethics. All such files shall be maintained by the office of the County Attorney.

#### **ARTICLE 10. VOID CONTRACTS**

Any contract or agreement entered into by or with the government that results in or from a violation of any provision of this Local Law shall be void unless ratified by the Warren County Board of Supervisors. This section shall not be construed to authorize the ratification of any contract prohibited by Article 18 of the New York State General Municipal Law. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this law or any other provision of law.

#### **ARTICLE 11. BOARD OF ETHICS: ESTABLISHMENT; INDEPENDENCE; BUDGET; MEMBERS; MEETINGS**

1. There is established a Board of Ethics, which shall consist of five (5) members and shall have and exercise the powers and duties set forth in this law. Members of the Board of Ethics shall be appointed by the Board of Supervisors.

2. The Board of Ethics shall be independent of the Board of Supervisors. The appropriations, if any, available to pay for the expenses of the Board of Ethics during each fiscal year shall be determined by the Board of Supervisors.

3. The first members appointed by the Board of Supervisors shall serve for a term of one

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<sup>1</sup> Annual ethics disclosure statements for 2014 are required to be filed pursuant to the provisions of the Warren County Code of Ethics adopted December 14, 1990.

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(1), two (2), three (3), four (4) and five (5) years. Hereafter, all appointees shall be appointed to five-year terms. Terms shall be staggered with no more than two vacancies open. A Board of Ethics member may serve for up to one year upon the expiration of his or her term, or until a successor is appointed to fill the vacancy. A Board of Ethics member may serve two full five (5) year terms.

4. No Board of Ethics member shall hold office in a political party or be employed or act as a lobbyist or be an officer in the government. A Board of Ethics member may not make campaign contributions to any political campaigns associated with the Board of Supervisors including but not limited to the positions of County Legislator, County Sheriff, County Clerk, District Attorney or County Treasurer, nor participate in any election campaign. Of the total membership of the Board of Ethics, no more than the majority minus one shall be registered in the same political party.

5. The members of the Board of Ethics shall designate the Chair of the Board. The Chair or any three (3) members of the Board of Ethics may call a meeting.

6. When a vacancy occurs in the membership of the Board of Ethics, the vacancy shall, within sixty (60) days, be filled by the Board of Supervisors for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Board of Ethics shall meet the qualifications set forth in Section 4 of this Article.

7. Three (3) members of the Board of Ethics shall constitute a quorum, and the Board of Ethics shall have the power to act by vote of three (3) members. All issues shall be decided by a majority vote (3 members) of the Board of Ethics.

8. After written notice and opportunity for reply, members of the Board of Ethics may be removed by the Board of Supervisors for failure to meet the qualifications set forth in Section 4 of this Article, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this law.

9. The members of the Board of Ethics shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties and for actual and necessary expenses incurred by a Board Member in successful completion of the training required by this Local Law and the General Municipal Law.

10. Each member of the Board of Ethics shall attend and successfully complete a training course approved by the State Comptroller within two hundred seventy (270) days of his or her appointment or re-appointment to the Board of Ethics, provided, however, that nothing in this Law shall be deemed to require a member of the Board of Ethics to successfully complete such training course more than once. The course shall contain training related to the provisions of the General Municipal Law, Code of Ethics, Annual Financial Disclosure and Decisional Law relating to conflicts of interests and ethics and such other topics as the Comptroller deems advisable.

11. The County Attorney will act as Staff to the Board of Ethics.

**ARTICLE 12. BOARD OF ETHICS: JURISDICTION; POWERS; DUTIES**

Powers and Duties:

1. The Board of Ethics shall render advisory opinions to the officers and employees of the County of Warren with respect to Article 18 of the General Municipal Law and this Local Law. 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:

- (a) The Board of Ethics shall render advisory opinions with respect to all matters covered by this law. An advisory opinion shall be rendered on the request of a county officer or employee or supervisory official of a county officer or employee and shall apply only to such public servant. The request shall be in such form as the Board of Ethics may require and shall be signed by the person making the request. The opinion of the Board of Ethics shall be based on such facts as presented in the request or subsequently submitted in a written, signed document.
- (b) Advisory opinions shall be issued only with respect to proposed future action by a public servant. A county officer or employee whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The Board of Ethics may amend a previously issued advisory opinion after giving reasonable notice to the county officer or employee that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the public servant.
- (c) The Board of Ethics shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any county officer or employee or other involved party. The advisory opinions of the Board of Ethics shall be indexed by subject matter and shall be maintained on an annual and cumulative basis.
- (d) For purposes of this subdivision, county officer or employee includes a current, prospective and county officer or employee, and a supervisory official includes a supervisory official who shall supervise, supervises or has supervised either a current, prospective or former county officer or employee.

2. The Board of Ethics may also 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 Warren County. The Board of Ethics 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 law by a county officer or employee.

- (a) All such complaints shall be signed;
- (b) All such complaints or allegations are to be kept in the confidential records

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of the Board of Ethics; and

- (c) In the event that an officer or employee is entitled to protections pursuant to Civil Service Law Section 75, all procedural protections, rights to counsel and due process contained therein shall be afforded that officer or employee and Section 75 rules and procedures shall control.

3. Hearing Procedure.

- (a) The Board of Ethics may initiate an investigation upon its own motion or upon receipt of a sworn complaint alleging a violation. Upon initiating an investigation, the Board of Ethics shall provide to the municipal officer or employee who is the subject of the investigation written notice describing the potential violation, providing the person with at least a fifteen (15) day period within which to submit a written response setting forth information related to the activities cited as the potential violation. The Board of Ethics may also obtain additional information relating to the potential violation from such other sources as it deems appropriate. If at any time during an investigation, the Board of Ethics determines that there has been no violation of this Article or Code of Ethics, the Board of Ethics shall provide written notification of such determination to the municipal officer or employee who is the subject of the investigation and the complainant, if any. In such case, all documents and records relating to proceedings conducted pursuant to this subdivision shall be confidential.
- (b) Should the Board of Ethics determine that there appears to be merit or probable cause in the complaint or allegations, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the Board of Ethics and explain the apparent conflict of interest. The written invitation shall be in the form of a notice and shall contain a statement of facts upon which the Board of Ethics has relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The Board of Ethics shall also inform the county officer or employee of the Board of Ethics' procedural rules. Such county officer or employee shall have a reasonable time to respond either orally or in writing, and shall have the right to be represented by counsel or any other person.
- (c) If, after consideration of the response of the officer or employee, the Board of Ethics determines that there remains probable cause to believe that a violation has occurred, the Board of Ethics shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, 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 including, but not limited to, Disciplinary Grievance Arbitration and/or New York State Civil Service Law Section 75 or other proceedings .

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When such matter is referred to such department or appointing authority, the department or appointing authority may consult with the Board of Ethics before issuing a final decision.

- (d) Should such officer or employee fail to appear in response to such invitation or should he or she appear and fail to satisfy the Board of Ethics that there is no conflict of interest or violation of this law, the Board of Ethics shall send a written report on the matter to the County Administrator. The report shall not be made public except by the County Administrator or by the unanimous vote of the Board of Ethics.
- (e) If the Board of Ethics determines, after a hearing or the opportunity for a hearing, that a county officer or employee has violated this law, it shall, refer the matter with documented findings of fact and conclusions of law to the Board of Supervisors, County Administrator and County Attorney, and when involving a subordinate employee to the applicable Department Head, for appropriate action which may include imposing such penalties as provided for in Article 14 of this law. If the county officer or employee is subject to the jurisdiction of any State Law or Collective Bargaining Agreement which provides for the conduct of disciplinary proceedings including, but not limited, disciplinary grievance arbitration and/or New York State Civil Service Law Section 75 or other proceedings, the Board of Ethics shall also refer the matter with findings of fact and conclusions of law to the Department Head or appointing authority. A copy of the Boards findings of fact and conclusions of law shall also be provided to the party or parties who filed the complaint.
- (f) Hearings of the Board of Ethics shall not be public unless requested by the public servant. The order and the Board of Ethics' findings and conclusions shall be made public.
- (g) The Board of Ethics shall maintain an index of all persons found to be in violation of this law, by name, office and date of order. The index and the determination of probable cause, complaints and orders in such cases shall be filed with the Board of Ethics and be made available for public inspection and copying. All final orders of the Board of Ethics or any appointing authority or department head relative to a determination of this Local Law and penalties shall be placed in the employee's personnel file and originals to be maintained by the Board of Ethics.
- (h) 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 of Ethics from exercising its powers and duties under this law with respect to actions of any public servant.

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- (i) The Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the proceedings authorized herein including the assessment of the civil penalties herein authorized. Such rules 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. Such notes may include the power to issue subpoenas for witness testimony and/or documentation evidence.
- (j) 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.

4. Upon request of the Board of Supervisors, the Board of Ethics may make recommendations for amendments. The Board of Ethics, upon its formulation, shall promulgate its own rules and regulations as to its forms and procedures and shall maintain records of its opinions and proceedings. Copies of all rules and regulations promulgated by the Board of Ethics and any and all amendments thereto which may be adopted from time to time shall be filed with the Clerk of the Board of Supervisors within ten (10) days of their adoption.

5. No meeting or proceeding or hearing of the Board of Ethics concerning a possible violation of this law by a county officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

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

- (a) To administer the provisions of this Local Law.
- (b) To prescribe and promulgate rules and regulations governing its own organization and procedures.
- (c) To review, index and maintain all Annual Disclosure Statements filed with the Board of Ethics.
- (d) To prepare and submit an annual report to the Warren County Board of Supervisors summarizing the activities of the Board of Ethics, listing any recommended changes to the text or administration of this Local Law.
- (e) To provide for public inspection of certain records. The only 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 some other state or federal law or regulation.
- (f) To receive, review and approve or disapprove all requests for waivers related to this law.

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- (g) The Board of Ethics shall perform such other functions relating to the administration of this Local Law as may be authorized by the governing Board including, but not limited to, providing ethics training to the County's officers and employees and officers and employees of municipalities located wholly or partly within the County. In addition, the Board of Ethics may make recommendations with respect to amendments to this Code of Ethics upon the request of the governing body.

Any person aggrieved by a determination or Order 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.

**ARTICLE 13. INJUNCTIVE RELIEF**

Any citizen, officer, or employee of the County may bring an action for injunctive relief to enjoin an officer or employee of the government from violating this law or to compel an officer or employee of the government to comply with the provisions of this law.

**ARTICLE 14. PENALTIES**

A violation of this law may subject the violator to any or all of the following penalties:

1. Disciplinary action.

- (a) Any County officer or employee who knowingly or intentionally engages in any action that violates any provision of this law, including knowingly failing to file the Annual Disclosure Statement, may be warned or reprimanded or suspended or removed from office or employment, or be subject to any other sanction authorized by this Local Law or any State law or Collective Bargaining which provides for conduct of disciplinary proceedings including, but not limited to, Disciplinary Grievance Arbitration and/or New York State Civil Service Law Section 75 or other laws. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this law or in any other provision required by the laws of New York State.
- (b) Any Advisory Board members required to comply with the provision of this Local Law who knowingly or intentionally engages in any action that violates any provision thereof, including the failure to complete the annual disclosure statement, shall be deemed to have resigned from said advisory board, in addition to any other applicable penalties as may be appropriate under this section.

2. Civil fine. Any government officer or employee who knowingly or intentionally violates any provision of this law may be subject to a civil fine of up to One Thousand Dollars (\$1,000) for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision

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of law or in this law, other than a civil forfeiture pursuant to Section 4 of this Article.

3. Damages. Any person, whether or not a government officer or employee, who knowingly or intentionally violates any provision of this law shall be liable in damages to the government for any losses or increased costs incurred by the government as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this law, other than a civil forfeiture pursuant to Section 4 of this Article.

4. Civil forfeiture. Any entity or person, whether or not a government officer or employee, which or who receives an economic benefit knowing it to be the result of conduct that violates any provision of this law shall be subject to a civil forfeiture to the government of a sum up to three times the value of the benefit. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this law, other than a civil fine pursuant to Section 2 or damages pursuant to Section 3 of this Article.

5. Crime. Any person, whether or not a government officer or employee, who knowingly or intentionally violates provisions of this law, may be guilty of a Class A Misdemeanor and, upon conviction thereof, should forfeit his or her government office or employment.

6. Debarment.

- (a) Any entity or person, whether or not a government officer or employee, which or who knowingly or intentionally violates any provision of this law may be prohibited from entering into any contract with any agency of the government for a period not to exceed three (3) years, and
- (b) Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, and
- (c) Under this section, a corporation, partnership, or other entity shall not be held vicariously liable for the unauthorized actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the unauthorized actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity shall not be debarred because of the unauthorized actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

**ARTICLE 15. REVIEW OF LISTS AND DISCLOSURE STATEMENTS**

1. The Board of Ethics shall review:

- (a) The lists of officers and employees, prepared pursuant to Article 9 of this law, to determine whether the lists are complete and accurate. The Board of Ethics shall recommend to the Board of Supervisors the name(s) of any other officer

or employee who the Board of Ethics determines should appear or not appear on the list.

- (b) All annual disclosure statements, and revisions, to determine whether any person required to file such a statement has failed to file it.

2. If the Board of Ethics determines that an annual disclosure statement or a transactional disclosure statement is deficient, the Board of Ethics shall notify the person in writing of the deficiency of a possible or potential violation and of the penalties for failure to comply with this law.

**ARTICLE 16. TRAINING AND EDUCATION**

1. The Board of Ethics shall make information concerning this law available to all government officers and employees, to the public, and to persons interested in doing business with the government and shall annually distribute to every government officer and employee a copy of the Ethics and Disclosure Law set forth in this law. Each government agency shall conspicuously post in each of its work sites a sign provided by the Board of Ethics setting forth the Ethics and Disclosure Law. The chief executive officer of a municipality adopting a Ethics and Disclosure Law or an amendment thereto shall cause a copy thereof of such Ethics and Disclosure Law or amendment thereto to be distributed promptly to every officer and employee of his or her municipality. In addition, such chief executive officer shall cause a complete and current copy of the municipality's Ethics and Disclosure Law to be distributed to every such officer and employee at least once every five years. Every municipal officer and employee receiving a copy of a Ethics and Disclosure Law or amendment thereto shall acknowledge promptly in writing that he or she has received and read the Ethics and Disclosure Law or amendment. The Board of Ethics shall also cause a copy of the Ethics and Disclosure Law, including any amendment thereto, to be posted publicly and conspicuously in each building under their control. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such Ethics and Disclosure Law or amendment nor the enforcement of provisions thereof.

2. Training as to the provisions of this law shall be regularly offered for all government officers and employees. Each government agency shall provide such assistance to the Board of Ethics as may be necessary and reasonable in conducting ongoing training programs on this law and in making information concerning this law available and known to all government officers and employees. On or before the tenth day after an individual becomes a government officer or employee, he or she shall sign a written statement, which shall be maintained in his or her personnel file, that the government officer or employee has received and read and shall conform to the provisions of the Ethics Code, provided, however, that the failure of an officer or employee to receive such training or to sign such a statement or to receive a copy of the Ethics Code or the failure to maintain the statement on file shall have no effect on the duty of compliance with this law or on the enforcement of the provisions thereof.

**ARTICLE 17. ANNUAL REPORTS AND REVIEWS**

The Board of Ethics shall prepare and submit an annual report to the Board of Supervisors summarizing the activities of the Board of Ethics during the preceding year. The report may also recommend changes to the text or administration of this local law and shall also include an index and summary of all advisory opinions and of those enforcement dispositions imposing sanctions.

ARTICLE 18. TRANSPARENCY

The Ethics Board shall be subject to the requirements of both the Freedom of Information Law (Public Officers Law, sections 84-90) and the Open Meetings Law (Public Officers Law, sections 100-111). Meetings and documents of the Board of Ethics shall be confidential to the extent permitted by New York State Law, except as otherwise provided in this Code of Ethics.

ARTICLE 19. DISCLOSURE STATEMENT
ANNUAL STATEMENT OF FINANCIAL DISCLOSURE
County of Warren

For Year: \_\_\_\_\_

Table with 3 columns: Last Name, First Name, Initial. Below are fields for Title or Capacity, Department or Agency, Work Address, and Telephone Number.

If the answer to any of the following questions is "none", please so indicate.

- 1. Real Estate Ownership. List the address of each piece of property that you, your spouse, domestic partner, or dependent child own or have a financial interest in. List only real estate that is in the County of Warren or within one (1) mile of the boundary of the County of Warren.

Table with 2 columns: Address of Real Estate, Type of Interest. Includes example: E.g. Main St., Teatown; Residence.

- 2. Your outside employer or business. List the name of any outside employer or business from which you receive compensation for service rendered or goods sold or produced or of which you are a member of a board of directors, officer, or employee. Also include any entity in which you have an ownership interest, except a corporation of which you own less than five percent (5%) of the outstanding stock. Identify the type of business, such as a partnership, corporation, self-employment, or a sole proprietorship and list your relationship to the employer or business.

Table with 4 columns: Name of Employer or Business, Nature of Business, Type of Business, Relationship to Business. Includes examples like Monument, Realty, Real Estate, Partnership Employee.

- 3. Your spouse's or domestic partner's employer or business. List the information in question two for your spouse or domestic partner.

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<u>Name of Employer or Business</u>	<u>Nature of Business</u>	<u>Type of Business</u>	<u>Relationship to Business</u>
	[E.g.: TechIMComputer	Corp.	Pres./Shareholder]
[E.g.: Monument	Realty	Real Estate	Partnership Employee]

- 4. Relatives in Warren County Service.** List each relative who is an officer or employee of Warren County, whether paid or unpaid, including relative’s name, relationship to you, title, and department. Relative means your spouse, domestic partner, child, stepchild, grandchild, brother, sister, parent, stepparent, plus any person you claimed as a dependent on your latest income tax return, and that dependent’s spouse or domestic partner.

<u>Name of Family Member</u>	<u>Relationship to You</u>	<u>Title</u>	<u>Department</u>
E.g.: Alex Jones	Sister’s husband	Code Enf. Officer	Building & Grounds

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

<u>Creditor</u>	<u>Type of Obligation</u>
Supervisor Guess	Promissory Note

**Money owed to you.** List any debts of \$10,000 or more that Officers or employees of Warren County or anyone that does business with Warren County owes to you.

<u>Debtor</u>	<u>Type of Obligation</u>
XYZ Contractors	Bridge Loan

- 6. List and identify your potential conflicts of interest, if any.** You may seek the advice of the Board of Ethics.

\_\_\_\_\_

*Example: “I serve as President of the Adirondack Trail Riders Association.”*

- 7. I have read and understand the Warren County Ethics and Disclosure Law.**

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

State of New York }  
 }ss:  
 County of Warren }

I \_\_\_\_\_, Clerk of the Warren County Board of Supervisors, **DO HEREBY CERTIFY**, that I have compared this copy of the within dated \_\_\_\_\_ with the original record in this office and that the same is correct transcript thereof and of the whole of said original record.

\_\_\_\_\_

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**ARTICLE 20. REPEALER**

This Local Law shall repeal, replace and supercede the Warren County Code of Ethics adopted December 14, 1990.

**ARTICLE 21. SEVERABILITY**

In the event that any provision of this Local Law shall be determined by a Court of Law to be illegal and/or unenforceable, the Local Law, to the extent the Courts have determined practical shall continue in full force and effect as if the said illegal or unenforceable provision were not contained a part thereof.

**ARTICLE 22. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing with the Secretary of State.

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**WARREN COUNTY**

**Outside Interest Form**

This form is to be filled out if you or any immediate family member is currently or plans to be in the future, an employee, board member, consultant, owner, contractor or even a passive investor of an entity that: (I) engages in any business or maintains any relationship with The County (The County); (ii) provides to, or receives from The County any client referrals, or (iii) competes with The County. The completed form must be submitted to the County Attorney.

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

If not an employee, describe the nature of your relationship with The County:

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

Describe the nature of your outside activities in any entity that engages in any business or maintains any relationship with The County.

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

Describe the nature of your outside activities in any entity that provides to, or receives from, The County any client referrals.

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

Describe the nature of your outside activities in any entity that competes with The County.

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

Date completed and signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Date reviewed by Compliance Officer and signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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APPENDIX A

**RULES OF THE WARREN COUNTY BOARD OF ETHICS**

ARTICLE I - AUTHORITY AND JURISDICTION

Authority: These rules are promulgated pursuant to Local Law No. 3 of 2014, entitled the Warren County Ethics and Disclosure Law.

Scope and Jurisdiction: These rules apply to Board of Ethics initiated investigations, investigations of complaints, and Board hearings alleging violations of the Warren County Ethics and Disclosure Law.

ARTICLE II - COMPLAINTS AND INVESTIGATIONS

A. DEFINITIONS:

1. Board: "Board" means the Warren County Board of Ethics established pursuant to Warren County Local Law No. 3 of 2014. Any non-ministerial action of the Board requires a vote of the Board, and such action must be approved by a majority of the Board.
2. Respondent: "Respondent" means an officer or employee of Warren County, elected or appointed, including "reporting officer, employee or elected officials" and candidates for County elected office as well as anyone subject to Local Law No. 3 of 2014, against whom a complaint is filed or who is the subject of an investigation.

B. COMPLAINTS:

1. Filing of Complaint. Complaints shall be filed at the Board's offices, C/O County Attorney's Office, Warren County Municipal Center, 1340 State Route 9, Lake George, New York 12845. Upon receipt of any complaint, a copy of the complaint shall be provided to the Respondent by the Board.
2. Who May File: Any person, or the Board of Ethics on its own initiative may file a complaint alleging a violation of Warren County Local Law No. 3 of 2014.
3. Confidentiality: All records and documents received or generated by the Board during the course of an investigation shall remain confidential except that a complaint shall be available to the respondent and the Board may make available for public inspection any decision. For purposes of this rule, the Board and its staff are authorized to review any complaint related documents and to communicate with each other without limitation.

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ARTICLE III - SUBPOENA POWER

1. The Board shall have the power to subpoena witnesses, compel their attendance and require the production of any documents or other evidence which it may deem relevant or material. The Board, at its sole discretion, may issue a subpoena at the request of the Respondent.
2. Demand for Information: In lieu of issuing a subpoena, the Board may authorize the issuance of a demand for information upon any person who may have information which would assist in the furtherance of the Board's investigation.

ARTICLE IV - ADJUDICATORY PROCEEDING

- A. Notice of Adjudicatory Hearing: The Board shall send a Notice of Adjudicatory Hearing to the Respondent by certified mail, return receipt requested and by regular mail. The date fixed for the Adjudicatory Hearing shall be at least thirty (30) days after the Notice of Adjudicatory Hearing is sent to the Respondent.
  1. Content of Notice: The Notice of Adjudicatory Hearing shall contain the following information:
    - a) A statement of the time, place and nature of the hearing;
    - b) A statement that the hearing is being conducted pursuant to the adjudicatory power granted to the Board by Warren County Local Law No. 3 of 2014;
    - c) A statement that the Respondent is subject to the jurisdiction of the Board;
    - d) The specific violation(s) involved and reference to the particular sections of the statutes and rules involved;
    - e) A short and plain statement of matters asserted;
    - f) The identity of any complainant if not heretofore made known to the Respondent;
    - g) A statement notifying the Respondent of his or her rights to be represented by counsel at the hearing, to cross examine witnesses, and to present evidence in the manner provided herein;
    - h) A statement that no adverse inference may be drawn from the Respondent's silence or exercise of Fifth Amendment right.
- B. Investigative Materials: Investigative materials such as investigator's note of interviews and investigative reports shall not be discoverable. Materials obtained by the Board of Ethics in the course of its investigation, which would be otherwise available in the public domain, are discoverable.
- C. Staff Reports: Reports prepared by the Board of Ethics staff concerning the investigation are not discoverable except as otherwise provided in these rules.
- D. Privileged Material: Material which is ordinarily exempt from disclosure on the grounds of privilege shall not be discoverable.

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- E. Attorney Work Product: The work product of the Board of Ethics staff counsel shall not be discoverable. Materials prepared for litigation are generally not discoverable except as provided otherwise in these rules.
- F. Evidence: The Respondent upon demand shall be entitled to a list of the documentary and other evidence that the Board of Ethics staff counsel will offer at the adjudicatory hearing.
- G. Witnesses' Statements: Witnesses' statements obtained by the Board of Ethics, including prior statements of a witness who will be called at the hearing, are discoverable.
- H. Judicial Notice: The Board may take judicial notice of any facts or law that could be judicially noticed.
- I. Oath: All testimony taken before the Board shall be under oath. Oral evidence shall be taken only under oath. The oath may be administered by the Board of Ethics Chairman or any presiding officer or hearing officer that may be appointed. The oath is obtained by an affirmative response to the following statement: "Do you solemnly state, under penalty of perjury, that the evidence that you shall give in this matter shall be the truth, the whole truth, and nothing but the truth?"
- J. Unless precluded by statute, dispositions may be made of any adjudicatory proceeding by stipulation, agreed settlement, consent order, default or other informal method.

**ARTICLE V - PRESIDING OFFICERS**

- 1. The Board of Ethics, one or more members of the Board of Ethics, or one or more hearing officer which may be designated and empowered by the Board of Ethics, will conduct adjudicatory hearings and shall be presiding officers. Hearings shall be conducted in an impartial manner.
- 2. The Board of Ethics may appoint a hearing officer to act in its stead as the presiding officer to conduct a hearing.
- 3. The presiding officer/hearing officer or any members of the Board of Ethics may ask questions of witnesses, and make requests or allow additional evidence at any time, including additional rebuttal evidence.

**ARTICLE VI - POWERS OF PRESIDING OFFICERS**

- A. Presiding officers are authorized to:
  - 1. Administer oaths and affirmations.
  - 2. Sign and issue subpoenas in the name of the Board, at the request of any party, requiring attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence and said subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the

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- authority of an attorney for a party to issue such subpoenas under the provisions of the Civil Practice Law and Rules.
3. Provide for the taking of testimony by deposition.
  4. Regulate the course of the hearings, set the time and place for continued hearing, and fix the time for filing of briefs and other documents.
  5. Direct the parties to appear and confer to consider the simplification of the issues by consent of the parties.
  6. Conduct the adjudicatory hearing.
  7. The presiding officer and/or hearing officer will make findings of fact and shall reduce his or her recommendations to writing and submit those recommendations to the Board of Ethics. The presiding officer/hearing officer shall include written recommendations regarding penalties, if any. The presiding officer/hearing officer shall appear before the Board of Ethics upon the request to participate in deliberation required to render a decision on the merit. The Board of Ethics can enter a final order dismissing the case, modifying the report and recommendation, adopting the report and recommendation, rejecting the recommendation, or the Board of Ethics can enter an order remanding the case for further hearing.
  8. At the conclusion of the hearing, the Board of Ethics or any hearing officer appointed hereunder shall reduce its decision to writing and forward a certified copy thereof to the last known address of the Respondent, the complainant and the Board of Ethics by certified mail, return receipt requested as well as regular mail.

**ARTICLE VII - CONDUCT OF ADJUDICATORY HEARING**

- A. The following rules shall govern the conduct of the adjudicatory hearing:
  1. No hearing shall be convened or reconvened pursuant to adjournment unless a quorum of the Board is present.
  2. The designated presiding officer shall commence the hearing with a statement of the charges pending against the Respondent.
  3. An opening statement shall be delivered first by the Board of Ethics counsel detailing the alleged violations and the evidence supporting the allegation.
  4. Respondent, who shall have the right to appear pro se or through counsel, shall then have an opportunity to present an opening statement, but need not do so.
  5. All parties shall be afforded an opportunity to present written argument on the issues of law and an opportunity to present evidence in such argument on issues of fact.
- B. Each party shall have these rights:
  1. To call and examine witnesses.
  2. To introduce exhibits.
  3. Cross-examine opposing witnesses on any matter relevant to the issues.
  4. To impeach any witness regardless of which party called him or her to testify.
  5. A party may direct and re-cross, subject only to the limitations imposed by the presiding authority.

ARTICLE VIII - RECORD

- A. The record in an adjudicatory proceeding shall include:
  - 1. All notices, pleadings, motions and intermediate rulings.
  - 2. Evidence presented.
  - 3. A statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose.
  - 4. Questions and offers of proof, objections thereto, and rulings thereon.
  - 5. Proposed findings and exceptions.
  - 6. Any findings of fact, conclusions of law or other recommendations made by a presiding officer.
  - 7. Any decision, determination, opinion, order or report rendered.
  - 8. Decision and order of the Board of Ethics.
  
- B. The Board shall make a complete record of all adjudicatory 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. Upon request made by any party upon the Board within a reasonable time, but prior to the time of commencement of judicial review, of its giving notice of its decision, determination, opinion or order, the Board shall prepare the record together with any transcript of proceedings within a reasonable time and shall furnish a copy of the record and transcript or any part thereof to any party as he may request. Except when any statute provides otherwise, the Board is authorized to charge not more than its cost for the preparation and furnishing of such record or transcript or any part thereof, or the rate specified in the contract between the Board and the contractor if prepared by a private contractor.
  
- C. Findings of fact shall be based exclusively on the evidence and on matter officially noticed.
  
- D. The complete record of an adjudicatory proceeding shall remain confidential with the exception that a Notice of Civil Assessment and a Notice of Decision shall be available for public inspection.

ARTICLE IX - DECISION

- A. A final decision, determination or order adverse to a party in an adjudicatory proceeding shall be in writing or stated in the record and shall include findings of fact and conclusions of law or reasons for the decision, determination or order. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with Board rules, a party submitted proposed findings of fact, the decision, determination or order shall include a ruling upon each proposed finding. A copy of the decision, determination or order shall be delivered or mailed forthwith to each party and to his attorney of record.
  
- B. Unless required for the disposition of ex parte matters authorized by law, members or

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- employees of a Board assigned to render a decision or to make findings of fact and conclusions of law in an adjudicatory 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 his representative, except upon notice and opportunity for all parties to participate. Any such member (a) may communicate with other members of the Board, and (b) may have the aid and advice of Board staff other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.
- C. The Board may delete from any decision, determination or order any information that, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of Section 89 of the Public Officers Law and may also delete at the request of any person all references to trade secrets that, if disclosed, would cause a substantial injury to the competitive position of such person. Information which would reveal confidential material protected by Federal or State statute, shall be deleted from any such decision, determination or order.

ARTICLE X - EVIDENCE

- A. Irrelevant or unduly repetitious evidence or cross-examination may be excluded.
- B. The burden of proof shall be on the Board of Ethics or its representative or counsel.
- C. No decision, determination or order shall be made except upon consideration of the record as a whole or such portion thereof may be cited by a party to the proceeding and as supported by and in accordance with substantial evidence on the record. Substantial evidence shall be defined as "evidence which a reasonable mind may accept as adequate to support a conclusion of ultimate fact."
- D. Compliance with the technical rules of evidence in an adjudicatory hearing shall not be required and the parties and the hearing officer are not bound by the rules of evidence.
- E. Objections to evidentiary offers may be made and shall be noted in the record and ruled upon.
- F. Evidence which is fair, relative and probative of the issue shall be admitted if it is of the sort of evidence on which responsible persons are custom to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory law which might make improper the admission of evidence over objection and civil actions.
- G. Hearsay evidence may be allowed and used and shall be given such weight as determined by the presiding/hearing officer.
- H. The Board of Ethics shall render its decision based on the legally competent evidence contained in the record and on matters officially noticed.

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ARTICLE XI - NOTICE OF DECISION

- A. A notice of the Board's decision shall be mailed to the Respondent by certified mail, return receipt requested and regular mail. The decision of the Board shall become final upon the mailing of the notice to the Respondent.

ARTICLE XII - APPEAL

- A. Any person aggrieved by a decision of the Board of Ethics may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.