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

County
[redacted] of Montgomery
[redacted]
[redacted]
Local Law No. 1 of the year 19 90

A local law RELATIVE TO THE FILING OF FINANCIAL DISCLOSURE STATEMENTS BY CERTAIN COUNTY OFFICIALS AND EMPLOYEES AND PROVIDING FOR A COUNTY CODE OF ETHICS AS AUTHORIZED BY SECTION 812 OF THE GENERAL MUNICIPAL LAW

Be it enacted by the Board of Supervisors of the
(Name of Legislative Body)

County
[redacted] of Montgomery as follows:
[redacted]

SECTION 1. The Board of Supervisors of the County of Montgomery does hereby adopt a Code of Ethics for the guidance of its officers and employees, setting forth herein the standards of conduct reasonably expected of them and, pursuant to Section 812 of the General Municipal Law of the State of New York, the Board does hereby declare that certain officers and employees are required to file completed annual statements of financial disclosure. Such a Code of Ethics is mandatory for all municipalities, and would be imposed by the State of New York after January 1, 1991, unless each municipality establishes such a code and disclosure mechanism prior to that date.

SECTION 2. DEFINITIONS.

A. "Official or employee" means an official or employee of the County of Montgomery government whether paid or unpaid, who is a member of one or more of the boards, commissions, departments or agencies which serve the County of Montgomery, and all department and deputy department heads. A listing of department heads and deputies; other managerial employees; statutory committee appointees; special appointees of the Board of Supervisors and its Chairman; ad hoc committee appointees, and individual appointees by the Board of Supervisors or by the Chairman of the Board of Supervisors required to file the annual disclosure statements will annually be established by the adoption of a resolution by the Board of Supervisors.

B. "Interest" is a direct or indirect pecuniary or material benefit accruing to an official or employee as the result of a contract, business, professional transaction or other relationship with the County of Montgomery. For the purpose of this article, an official or employee will be deemed to have an interest in the affairs of:

1. His or her spouse and unemancipated children;
2. A firm, partnership, corporation or association of which an official or employee is a member or employee;
3. A corporation of which such official or employee is a member, official, director, employee or in which the official or employee owns five (5%) percent or more of any outstanding shares of any class of stock.

(If additional space is needed, please attach sheets of the same size as this and number each)

C. "Spouse" means the husband or wife of the employee or official unless living separate and apart from the employee or official with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to a judicial order, decree or judgement or a legally binding separation agreement.

"Unemancipated child" means any son, daughter, stepson or stepdaughter who is under the age of eighteen (18), unmarried, and living in the household of the official or employee.

SECTION 3. CODE OF ETHICS.

A. Prohibited Activities:

It is the policy of the Board of Supervisors that all officials and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an official or employee has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgement in the discharge of his or her responsibilities. No official or employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Montgomery or any agency thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.
2. Engage in, solicit, negotiate for or promise to accept private employment or render service for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.
3. Solicit, directly or indirectly, any gifts, or receive or accept any gift having the value of twenty-five (\$25.00) dollars, or more, whether in the form of money, services, loan, travel entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
4. Disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest.
5. Accept employment or engage in any business or activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.
6. Take action on a matter before the County or any instrumentality thereof, when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

B. Disclosure of Interest.

1. Any official who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the County of Montgomery or by any other official, board, agency, officer or employee of the County of Montgomery, and who participates in the discussion before or who gives an opinion or gives advice to any board, agency or individual considering the same, shall publicly disclose on the official record the nature and the extent of such interest.

2. Any official or employee of the County of Montgomery who has knowledge of any matter being considered by a board, agency, officer or employee of the County of Montgomery in which matter he or she has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her interest to such board, agency, officer or employee, and the nature and the extent thereof.

C. Annual Code of Ethics Review.

1. Every official and employee is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the County of Montgomery and such attestation shall be made on or before the first of February of each year.
2. The penalties for failing to comply with this subdivision will be the same as those provided for in Section 7.

SECTION 4. DISCLOSURE.

A. All officials and employees of the County of Montgomery shall file a Financial Disclosure Statement. The Statement shall be filed in the Office of the County Administrator no later than the first day of February of each year, and shall cover the preceding calendar year. Newly appointed or elected officials or employees whose duties commence after the first of January will be required to submit a Financial Disclosure Statement within thirty (30) days after the commencement of their duties. Such disclosure will cover the twelve (12) months' period prior to the date of filing. Within thirty (30) days of any material change in the information contained in his or her most recently filed Statement, the official or employee shall file a signed amendment to the Statement reflecting such change. It shall be the duty of the County Administrator to verify that each official or employee subject to this law has filed his or her Statement, and the County Administrator shall notify the Ethics Advisory Board of any instances of failing to file.

B. Disclosure Statements shall be maintained for a minimum period of seven (7) years from the date of filing.

SECTION 5. PUBLIC ACCESS.

The Board of Supervisors recognizes that public access to the Financial Disclosure Statements which are filed by County officials and employees will enhance the public confidence thereof and shall deter conflicts of interest and assist in their uncovering.

A. Any person or news media representatives desiring to review the Financial Disclosure Statement of any official or employee shall submit a written request to the County's Ethics Advisory Board which shall include the following:

1. Name and address.
2. Name and address of any person or organization on whose behalf the Statement is being requested.
3. A form of identification to verify that an accurate name and address has been given by the person requesting such information.
4. The reason for inspecting such Financial Disclosure Statement.
5. The payment of a fee of one (\$1.00) dollar per page if a copy of the Financial Disclosure Statement is desired.

B. Any official or employee whose Financial Disclosure Statement has been inspected or copies shall be notified of the identity and the address of the person(s) who, or organization(s) which, requested to view or to copy such Statement.

C. It shall be unlawful for any person or organization to inspect or to copy a Statement for:

1. Any unlawful purpose.
2. For the use, directly or indirectly, in the solicitation of the official or employee for political, charitable or business purposes.

D. A civil action may be brought by the County's Ethics Advisory Board against any person or organization that violates the provisions of paragraph C. of this Section or for the willful withholding of the information requested in Paragraph A. of this Section.

SECTION 6. ETHICS ADVISORY BOARD.

A. The Ethics Advisory Board shall consist of five (5) members, each appointed by a majority vote of the County's Board of Supervisors. Each member shall be a resident of the County of Montgomery and the Chairman of the Ethics Advisory Board shall be selected by the Chairman of the County's Board of Supervisors for a term of one (1) year.

B. None of the members of the Ethics Advisory Board may hold any other public office, whether elected or appointed, or be an employee of the County of Montgomery.

C. The Ethics Advisory Board will serve a term of four (4) years; however, two (2) of the original appointees shall be appointed to serve an initial term of two (2) years.

D. Four (4) members of the Ethics Advisory Board shall constitute a quorum, with the vote of three (3) members being required for action by the Board.

E. The members of the Ethics Advisory Board shall not be compensated; however, they may be reimbursed for reasonable expenses incurred in the performance of their duties.

F. Responsibilities:

1. The Montgomery County Ethics Advisory Board will meet at least quarterly. At each meeting of the Ethics Advisory Board, an opportunity shall be given to hear or receive complaints of alleged unethical practices which may be brought by any citizen. At a meeting no later than April 30th of each year, the Ethics Advisory Board shall review the filed Financial Disclosure Statements and the attestations which have been submitted by officials and employees.
2. The Ethics Advisory Board shall review all filed statements and complaints received to ascertain whether a conflict of interest or any impropriety exists between the public duties of the official or employee and his or her private activities pursuant to this Local Law.
3. In addition to such other powers conferred by this Section, the Ethics Advisory Board may recommend to the official or the employee the manner in which the conflict of interest or appearance of impropriety may be resolved. An affidavit by the official or employee detailing his or her compliance with the recommendations may be sufficient reason to rescind the Ethics Advisory Board's decision to make a disclosure. The affidavit must be delivered to the Board at a specific time and place which shall be set forth in the Board's certified, return receipt requested letter to such official or employee. If the official or employee fails to follow the recommendations of the Ethics Advisory Board in eliminating the conflict of interest or appearance of impropriety, that fact shall also be disclosed. Nothing herein contained shall be construed or interpreted to mean that the Ethics Advisory Board is under a duty to make such recommendations to the official or the employee.

4. The Ethics Advisory Board may grant an extension of time in which to file Financial Disclosure Statements due to justifiable cause or to undue hardship. The Board, by majority vote, may grant additional periods of time for complying with the requirement of Financial Disclosure Statement filing and shall impose time limitations upon such extensions.
5. The Ethics Advisory Board may permit an official or employee to delete from his or her Financial Disclosure Statement one or more items of information upon a finding by a majority of the entire Ethics Advisory Board that the information which would otherwise be required to be disclosed has no material bearing on the discharge of the duties of the official or employee. In this connection, the Ethics Advisory Board may, when requested, issue advisory opinions.

SECTION 7. PENALTIES.

A. If any official or employee refuses or fails, either unknowingly or unintentionally, to file a Statement as required by this Local Law, the Ethics Advisory Board shall notify the County's Board of Supervisors that said individual has not filed such Statement. On such notification, the County of Montgomery may suspend the official or employee without pay, if such person is compensated. In addition, the official or employee shall also be notified by certified mail that such required Statement is not on file. Once a Statement has been filed, the Ethics Advisory Board shall promptly notify the County's Board of Supervisors that the official or the employee has complied with such requirement of this Local Law. The official or employee shall be reinstated, and any monies withheld pursuant to this Section shall be released. Notwithstanding any other penalties imposed by this Section, if any official or employee does not file a Statement within forty-five (45) days after having been notified by the Ethics Advisory Board that said official or employee has failed to file, or if the official or employee files a Statement which the Ethics Advisory Board determines was filed with intent to deceive, intentionally misrepresent or otherwise fraudulently has answered any questions set forth in the Statement, or has intentionally withheld any information asked for or demanded in the Statement, such action shall be deemed a misconduct of office and shall be grounds for suspension or dismissal by the appropriate appointing authority. The Ethics Advisory Board shall send a notice of reasonable cause to the County Board of Supervisors of such instances of alleged misconduct. The Board of Supervisors may then take whatever action it deems appropriate to enforce the suspension or dismissal of the individual.

B. If an official or employee files a statement with intent to deceive or intentionally misrepresents, or otherwise fraudulently answers any questions set forth in the Statement, or intentionally withholds any information requested or demanded in the Statement, and if such deception or misrepresentation is found to be both intentional and material, then such official or employee may be assessed a civil penalty of not more than Ten Thousand (\$10,000.00) dollars by the Ethics Advisory Board. An assessment of a civil penalty will be final, unless suspended or vacated within thirty (30) days of imposition by the Ethics Advisory Board.

C. It will be a violation of this Local Law for any individual, except the individual who files such Statement, to disclose any information contained on a Financial Disclosure Statement except as authorized by this Local Law. A civil action may be brought by the Ethics Advisory Board against any person or organization that violates this paragraph.

D. Nothing in this Section shall be construed as precluding the prosecution of officials or employees for violations of any offense, criminal or civil, pursuant to the laws or statutes of the State of New York.

SECTION 8. CONSISTENCY WITH LAWS.

This Local Law is a policy of the Montgomery County Board of Supervisors, and by its enactment it rescinds and supersedes Resolution No. 236 of 1970,

Resolution No. 222 of 1971, Resolution No. 53 of 1987 and Resolution No. 222 of 1988.

SECTION 9. SAVING CLAUSE.

If any clause, sentence or paragraph of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder of the local law which shall as to such remainder remain in effect.

SECTION 10. EFFECTIVE DATE.

This Local Law shall take effect upon its filing thereof in the Office of the Secretary of State, however, no officer or employee shall be required to file the required Financial Disclosure Statement until February 1, 1991.