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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. .... 2 ..... of the year 19 90 .....

A local law ..... Authorizing a Hotel or Motel Occupancy Tax in Montgomery County and .....  
.....  
..... (Insert title) .....  
Creating a Montgomery County Occupancy Tax Advisory Board

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

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

SECTION 1. Purpose:

The general purpose of this local law is to authorize a hotel or motel occupancy tax in Montgomery County and create a Montgomery County Occupancy Tax Advisory Board. This local law has been authorized by enabling legislation of an amendment to the Tax Law of the State of New York which added a new Section 1202-K. The State Legislature and the Governor enacted such legislation into law during the 1990 Legislative Session.

SECTION 2. Justification:

This local law provides for the imposition of a hotel/motel occupancy tax ("bed tax") in the county not to exceed one percent. Such a tax will be charged to persons occupying any facility providing lodging on an overnight basis, including hotels, motels, bed and breakfast inns and tourist facilities. The bed tax is not applicable to "permanent residents", which are those individuals occupying any room or rooms for at least 30 consecutive days.

All revenues resulting from the imposition of the bed tax will be paid to the Montgomery County Treasurer and deposited in a special tourism/promotion account. The proceeds from this account shall be allocated by the Board of Supervisors to promote tourism and other directly related and supporting activities. All monies raised from the tax shall serve as a supplement to all other County tourism funds in order that tourism is effectively promoted within the County.

This local law also establishes a Montgomery County Occupancy Tax Advisory Board whose members shall be appointed by the County Board of Supervisors. This board shall serve to advise the Board of Supervisors concerning the collection, management and disbursement of revenues generated by the bed tax. In addition, the seven member advisory board shall include three members who are representatives of the lodging facility industry. The advisory board is charged with issuing an annual report reviewing the prior year's disbursement of such revenues and containing recommendations concerning the future use of such bed tax revenues.

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

### SECTION 3. Definitions:

"Hotel" or "Motel" shall mean and include any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast", "inn", and "tourist" facilities and the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel more than thirty consecutive days.

### SECTION 4. Rate.

The rate of such tax shall not exceed one (1) percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident of a hotel or motel.

### SECTION 5. Tax Collection and Administration.

(a) Such tax shall be collected and administered by the County Treasurer of Montgomery County by such means and in such manner as other taxes which are now collected and administered by such office;

(b) Any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the County of Montgomery imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax. Such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the County Treasurer shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge;

(c) The filing of returns and the payment of the tax shall be on a quarterly basis;

(d) The imposition of such tax upon any transaction, by or with any of the following is not authorized:

(1) The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the dominion of Canada), improvement district or other political subdivision of the state;

(2) The United States of America, insofar as it is immune from taxation;

(3) Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

(e) Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the State civil practice law and rules if application therefor is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless. The amount of any tax sought to be reviewed, with such interest and

penalties thereon as may be provided for by subsequent local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in the State of New York and approved by the superintendent of insurance of the State as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(f) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer, and such officer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceedings.

(g) Except in the case of a wilfully false or fraudulent return with intent to evade the tax,, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(h) All revenues resulting from the imposition of the tax under the local law shall be paid to the Montgomery County Treasurer and shall be credited to and deposited in a special tourism/promotion account, and the collections therefrom, excluding the cost of administration, shall thereafter be allocated by the Board of Supervisors to enhance and develop the general economy of the County and the towns therein through promotion of tourism, conventions, trade shows, and other directly related and supporting activities.

#### SECTION 6. Advisory Board.

(1) There is hereby established the Montgomery County Occupancy Tax Advisory Board which shall be comprised of seven members appointed by the Board of Supervisors on the recommendation of the Chairman of the Board of Supervisors. The Chairman of the Board, or his designee, shall serve as an ex-officio member of such board and have the same rights as other members, without voting participation.

(2) In appointing the members of the advisory board, the Board of Supervisors shall ensure that three of such members include representatives of organizations of the lodging facility industry, representative of but not limited to, travel and vacation businesses, convention bureaus, cultural institutions, theme parks and attractions, hotels and motels, restaurants, travel agents and transportation companies. The majority party shall have four appointments, and the minority party shall have three appointments.

(3) The members of said advisory board shall serve terms as follows, to commence on January 1 next succeeding the date upon which this local law shall have been a law;

(a) Three of such members, of which one member shall be a representative of an organization of the lodging facility industry, shall serve a term of one year;

(b) Two of such members, of which one member shall be a representative of an organization of the lodging facility industry, shall serve a term of two years; and

(c) Two of such members, of which one member shall be a representative of an organization of the lodging facility industry, shall serve a term of three years.

(4) No member of the advisory board shall be disqualified from holding another public office or employment nor shall any such office of employment be forfeited by reason of the member's appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or charter, excepting members of the Montgomery County Board of Supervisors

(5) Any member who fails to attend three consecutive meetings shall be deemed to have resigned. Any vacancy on the board shall be filled for the remaining term of the individual replaced. The appointment to fill such vacancy shall be made in the same manner as the original appointment was made.

(6) Powers and duties of the board. The board shall have the following powers and duties:

(a) To advise the Board of Supervisors concerning the collection, management and disbursement of revenues generated by the tax imposed by section 1202-k of the tax law;

(b) Identify, review and evaluate and make recommendations to the Board of Supervisors concerning tourism-related issues and the application of such revenues as they impact upon Montgomery County, to enhance and develop the general economy of the County of Montgomery and the towns therein in relation to such issues;

(c) Carry out such other duties as the Board of Supervisors may determine which are germane to its establishment;

(d) (i) In accordance with generally accepted accounting principles, issue an annual report to the chief executive officer of Montgomery County, the Treasurer of Montgomery County and the Board of Supervisors of Montgomery County and to any other entity, mandated by the Board of Supervisors of Montgomery County to receive same. Such report shall be issued no later than the date on which the chief executive officer of Montgomery County files his tentative annual budget with the Montgomery County Board of Supervisors, pursuant to section 354 of the County Law. (ii) Such report shall (A) reflect the activities for the immediately preceding twelve months period, generated through the use of such revenues generated pursuant to section 1202-k of the tax law, with particular emphasis on the promotion of tourism, conventions, trade shows, and any other directly related and supporting activities and (B) make recommendations concerning other future organizations, implementations and the use of such revenues.

#### SECTION 7. 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 judgement, decree or order shall not affect, impair or invalidate the remainder of the local law which shall as to such remainder remain in effect.

#### SECTION 8. Effective Date.

This Local Law shall take effect upon its filing thereof in the office of the Secretary of State. This hotel/motel tax herein established shall be collected effective January 1, 1991.

**RESOLUTION NO. 257 of 1990**  
**DATED: June 12, 1990**

**RESOLUTION ADOPTING LOCAL LAW - INTRODUCTORY NO. 2 (PRINT NO. 1), FOR THE YEAR 1990, FOR THE COUNTY OF MONTGOMERY, 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**

Resolution by Supervisor: Douglass  
 Seconded by Supervisor: Technicki

WHEREAS, on May 8, 1990, a proposed local law for the County of Montgomery, entitled: "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," was presented to the Board of Supervisors for consideration, and

WHEREAS, on the 22nd day of May, 1990, a Resolution (No. 203 of 1990) was adopted authorizing and directing a public hearing to be held by this Board of Supervisors on the 12th day of June, 1990, at 7:15 p.m., at the County Office Building, Fonda, New York, in the Supervisors' Chambers, and

WHEREAS, notice of such hearing on such proposed local law was duly published as required by law and said hearing was held on the 12th day of June, 1990 at the time and place appointed,

RESOLVED, that said local law, known as Local Law Introductory No. 2 (Print No. 1) for the year 1990, entitled: "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, and it hereby is, adopted and approved and is incorporated and attached hereto, and

FURTHER RESOLVED, that the Clerk of the Board of Supervisors of Montgomery County be, and he hereby is, authorized, empowered and directed to file one certified copy thereof with the County Clerk of the County of Montgomery and three certified copies thereof in the Office of the Secretary of State, and also to ensure that it is twice published in the County's designated legal newspapers, as is required by law.

**RESOLUTION ADOPTED UNANIMOUSLY.**

Duly adopted upon roll call, all members present (1495) voting aye.

**RESOLUTION NO. 258 of 1990**  
**DATED: June 12, 1990**

**RESOLUTION MAKING HOME RULE REQUEST TO ELECTED REPRESENTATIVES IN STATE LEGISLATURE AND THE GOVERNOR TO ADOPT AND SIGN INTO LAW LEGISLATION TO PERMIT THE ESTABLISHMENT OF A HOTEL/MOTEL OCCUPANCY TAX IN MONTGOMERY COUNTY**

Resolution by Supervisor: Ottati, Wills  
 Seconded by Supervisor: Douglass, Papa

WHEREAS, it has been proposed that a hotel/motel occupancy tax be instituted in Montgomery County, and

WHEREAS, many other counties in the State have established such a tax in order to obtain revenue for the use of tourism promotion programs and general economic development, and

WHEREAS, said tax in other counties ranges from one to three percent of the total of the room charge, and

WHEREAS, said tax would not apply to permanent residents of a hotel or motel in County, and

WHEREAS, such a tax can be established following the passage of an appropriate resolution by the State Legislature and it being signed into law by the Governor, and the adoption of a subsequent local law by the Board of Supervisors, and

WHEREAS, the Board of Supervisors, at the adoption of Resolution No. 601 of 1988, December 15, 1987, memorialized the County's elected representatives in the Legislature to propose and sponsor appropriate legislation in this matter, and

WHEREAS, both Senator Hugh T. Farley and Assemblyman Paul D. Tonko have drafted appropriate legislation and are prepared to introduce it in the State Senate and the State Assembly, and

WHEREAS, such a measure can be introduced to the State Legislature only upon the adoption of a Home Rule Request resolution by the Board of Supervisors, said resolution receiving approval by two-thirds of the membership,

RESOLVED, that pursuant to Article IX of the Constitution of the State of New York, a

Home Rule Request by Montgomery County to its elected representatives in the State Legislature an enact and sign into law legislation that will establish a hotel/motel occupancy tax in the County of one (1) percent of the room, revenues to be dedicated to tourism promotion in Montgomery County.

MOTION TO AMEND by Supervisor: Wills  
 seconded by Supervisor: Wills  
 RESOLVED clause the phrase "04-0)" and in its place put "(A.11907 S.8831)". Motion Aye (1495).

RESOLUTION ADOPTED (2/3) by Supervisors Kwiatkowski, LaPlan, Frasier voted nay.

Duly adopted upon roll call present (0756) voting aye.

**RESOLUTION NO. 259**  
**DATED: June 12, 1990**

**RESOLUTION AUTHORIZING TO SIGN AGREEMENT AND RING FUNDS - FEASIBILITY STUDY OF ADULT HOME COMPONENT COMMUNITIES AT MONTGOMERY MANOR AND COUNTY INFIRMARY**

Resolution by Supervisor: Wills  
 Seconded by Supervisor: Ottati

WHEREAS, by the adoption of Resolution No. 106 of 1990 on February 2, 1990, the Board of Supervisors authorized and the Commissioner of Social Services prepared a cost estimate for the proposed construction of a new County adult home at the current facility, Montgomery Manor, Town of Palatine, and

WHEREAS, said resolution authorized the development and applications for predevelopment loans to the State Division of Housing and Community Renewal for the construction of adult home components at both the Yosts site and a County Infirmary in Amsterdam,

WHEREAS, said Division of Housing and Community Renewal has stated that predevelopment loans cannot be used for adult home components of retirement communities, and

WHEREAS, on May 15, 1990,