

MONTGOMERY COUNTY CHARTER

[**HISTORY: Adopted by the Board of Supervisors of the County of Montgomery on August 14, 2012 by L.L. No. 2]**

ARTICLE 1: MONTGOMERY COUNTY AND ITS GOVERNMENT

§ 1.01. Title.

This Charter and all amendments thereto shall constitute the form of government for the County of Montgomery and shall be known and cited as the "Montgomery County Charter."

§ 1.02. Purpose.

Among the purposes of this Charter are: to secure the maximum self-government for the people of Montgomery County through the exercise of home-rule powers granted under the Constitution and under the laws of the State of New York; to establish through such home-rule powers an effective and responsible County government, and to separate County legislative and executive functions.

§ 1.03. Continued status, powers and duties.

The County of Montgomery shall continue to be a municipal corporation and shall have all the powers and perform all the duties now or hereafter conferred or imposed upon it by this Charter or applicable law, together with all rights, privileges, functions and powers necessarily implied or incidental thereto.

§ 1.04. Definitions.

- (a) "Administrative Code" or "Code" shall mean the Administrative Code adopted by and for the County and all amendments thereto.
- (b) "Charter" shall mean this Montgomery County Charter and all amendments thereto.
- (c) "County" shall mean the County of Montgomery.
- (d) "County Executive" shall mean the County Executive of Montgomery County as more fully provided in Article 3 of this Charter and the Administrative Code.
- (e) "Executive Branch" shall mean the County Executive and all units of government within his or her jurisdiction.
- (f) "Local Law" shall mean a law adopted pursuant to this Charter or the Administrative Code within the power granted by the Constitution of the State of New York, an act of the State Legislature or a provision of this Charter or the Administrative Code, but shall not include legalizing acts or resolutions.
- (g) "Qualified Elector" shall mean a person qualified to cast a ballot in a Montgomery County election.
- (h) "Resolution" shall mean a legislative act other than a local law or legalizing act, adopted pursuant to this Charter or the Administrative Code, but not subject to referendum.
- (i) "Day" to be construed in accordance with the New York State General Construction Law.

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§ 1.05. Effect of Charter on State Laws.

Any state law, which is inconsistent with this Charter, shall be superseded by the provisions hereof to the extent of its inconsistency, except where supersession is restricted by law.

§ 1.06. Effect of Charter on local laws and resolutions.

Except to the extent to which they may be inconsistent with the provisions of this Charter, all existing local laws, resolutions, rules and regulations heretofore adopted shall continue in force and effect until amended, superseded or repealed.

ARTICLE 2: THE COUNTY LEGISLATURE

§ 2.01. Governing body.

The legislative, appropriating and policy-determining powers of Montgomery County shall be vested in an elected body, which shall be known as the County Legislature. The County Legislature shall consist of nine (9) members elected from single-member districts.

§ 2.02. Term.

(a) The County Legislators shall be elected for terms of three years at the general elections hereinafter provided and every three years thereafter, a County Legislator may be elected after serving 4 consecutive terms only if their office is vacated for one term:

(b) No person shall be elected to a full term of the office of County Legislator more than four times, and no person who has held the office of County Legislator, or acted as County Legislator for more than 1 1/2 years of a term to which some other person was elected County Legislator shall be elected to a full term of the office of County Legislator more than three times.

§ 2.03. Qualifications.

At the time of his or her nomination and election, and throughout his or her term of office, each County Legislator shall be and shall remain an elector of the district from which he or she is elected. No County Legislator shall hold any other elected public office during the term for which he or she is elected to the County Legislature.

§ 2.04. Powers and duties.

The County Legislature shall be the legislative, appropriating and policy-determining body of the County. Except as may otherwise be provided in this Charter, it shall have and exercise all the legislative powers and duties now or hereafter conferred or imposed upon it by this Charter or upon a board of supervisors or the legislative body of a county by state law, together with all the powers and duties necessarily implied or incidental thereto. The County Legislature shall have, but not by limitation, the following powers and duties:

(a) To adopt by resolution all necessary rules and regulations for its conduct and procedure;

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- (b) To make appropriations, levy taxes, incur indebtedness and adopt the County budget;
- (c) To exercise all powers of local legislation in relation to enacting, amending or rescinding local laws, Charter laws, legalizing acts or resolutions;
- (d) To adopt, amend and repeal by local law an Administrative Code, which shall set forth the details of the administration of the County government consistent with the provisions of this Charter;
- (e) To confirm, when required, the appointments made by the County Executive according to the procedure cited in § 2.08 of this article;
- (f) To create, alter, combine or abolish by local law County administrative units not headed by elective officers;
- (g) To fix by resolution the compensation of all officers and employees paid from County funds except members of the judiciary; except that the compensation of any elected official paid from County funds shall not be decreased during his or her term;
- (h) To fix by resolution the compensation to be paid from County funds for persons who are rendering service to or in behalf of the County but who are not officers or employees of the County;
- (i) To make or cause to be made such studies, audits and investigations as it deems to be in the best interest of the County, and in connection therewith to obtain professional and technical advice, appoint temporary advisory boards of citizens, subpoena witnesses, administer oaths and require the production of bonds, papers and other evidence deemed necessary;
- (j) To fix the amount of bonds of officers and employees paid from County funds;
- (k) To designate annually by resolution one, but not more than three newspapers published within the County of all enactments, notices and other matters required by law;
- (l) To establish or abolish positions of employment and titles thereof;
- (m) To fill vacancies in any elective county offices except the judiciary in accordance with this Charter and other applicable laws;
- (n) To designate two or more depositories for the deposit of all monies received by the County Treasurer;
- (o) To fix the amount of the annual salary of its members by resolution provided,
- (p) To determine and make provision for any matter of County government not otherwise provided for;
- (q) To appoint, as deemed necessary and proper, by resolution duly adopted, outside counsel on a per case basis.

§ 2.05. Officers and committees of the County Legislature.

The County Legislature shall, on the first Tuesday after the first Monday in January of each year or as soon thereafter as practicable, meet and organize by election from among its members a Chair, a Deputy Chair and such other legislative officials as it deems appropriate. The Chair shall appoint members of the County Legislature to serve on such legislative committees as are provided by the rules of the County Legislature. The County Clerk shall serve as Chair until such time as the County Legislature itself elects a Chair.

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§ 2.06. Clerk of the Legislature.

The County Legislature shall, at its first organizational meeting on the first day in January or as soon thereafter as practicable, and every three years thereafter, appoint a Clerk who shall serve until his or her successor is appointed. From time to time the Clerk shall appoint such additional personnel as are required for the efficient operation of the office of the Clerk within the appropriations provided therefore.

§ 2.07. Vacancies.

If a vacancy should occur in the office of County Legislator, such vacancy shall be filled at the next general election for the remainder of the unexpired term. The County Legislature shall appoint a qualified elector of the district in which the vacancy occurred to serve until a successor has been elected and qualified.

§ 2.08. Confirmation of appointments.

Confirmation of appointments, except as otherwise provided by the Charter, shall be the affirmative vote of a majority of the whole number of members of the County Legislature taken at a regular or special meeting. Said vote shall be taken no longer than sixty (60) days after such appointment has been filed with the Clerk of the Legislature and shall include the committee review process. If the County Legislature shall fail to approve or disapprove any appointment on or before the sixtieth (60th) day, such appointment shall be deemed approved and take effect at that time.

§ 2.09. Audits.

The County Legislature shall, on an annual basis, provide that an independent audit be performed of the accounts of the County and of every County department, office and agency. Where appropriate, a single audit or audits may be commissioned by the Legislature as required by law. The audit shall be made by a qualified accountant or accounting firm, so designated by the Legislature, which has no personal or professional conflict of interest with respect to the affairs of the County or of any of its departments, offices or agencies. The result of such audits shall be transmitted to the County Legislature and made available to the public not more than ten (10) days after receipt by the Clerk of the Legislature.

§ 2.10. Continuous Audit

For the purpose of maintaining proper control and supervision over all fiscal affairs, the County Legislature shall:

(a) Appoint County Audit Committee, consisting of the Chairman of the County Legislature, the Finance Committee Chair and one additional County Legislator, who will have the responsibility for auditing vouchers and claims for payment against County funds or funds for which the County is responsible and shall certify the same for payment by the County Treasurer.

§ 2.11. Auditor.

The County Legislature may appoint an Auditor who shall serve until his or her successor is appointed. The Auditor and all full-time managerial employees in the department shall

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serve on a full-time basis and shall not engage in any private practice nor be employed in their field of expertise with the County by any private or other governmental entity. The Auditor shall be supervised by the County Legislature and his or her duties shall include:

- (a) Auditing and certifying for payment all lawful claim and charge against the County, whether for payroll or otherwise, or against funds for which the County is responsible in whole or in part;
- (b) Certifying the availability of funds for all requisitions, contracts, purchase orders and other documents by which the County incurs financial obligations or for the expenditure of funds for which the County is responsible;
- (c) Such special audits, in addition to those stated in § 2.04 (i), as are deemed necessary, at the request of the Legislature.

§ 2.12. Publication Requirements

- (a) The notice hearing to be held by the County Executive for the adoption of a local law as provided for in § 3.04-B of the Charter shall contain an abstract of the provisions thereof and shall include the location and availability of a copy of the actual text of each local law;
- (b) Upon adoption of each local law of the County of Montgomery the Clerk of the Legislature shall cause the publication once in the official newspapers of the County of the Notice of Adoption of said local law and an abstract of the provision thereof. Said notice shall include the location and availability of a copy of the actual text of each local law. This publication shall be in lieu of that required by County Law 214(2), which is hereby expressly superseded by this local law.

ARTICLE 3: THE COUNTY EXECUTIVE

§ 3.01. Chief Executive Officer: election; term; qualifications.

The County Executive shall be elected from the County at large beginning in 2013, for a term of four (4) years commencing on the first day of January immediately following his or her election. He or she shall serve a maximum of three (3) consecutive full terms. At the time of nomination and election, the County Executive shall be, and he or she shall remain, a qualified elector of Montgomery County. He or she shall hold no other elected public or elected political office during his or her term and shall devote his or her full working time to the duties of the office. The compensation of the County Executive shall not be increased or decreased during his or her term of office.

§ 3.02. Powers and duties.

The County Executive shall be responsible for the proper administration of all County affairs placed in his or her charge. He or she shall have and exercise all the powers and duties now or hereafter conferred or imposed on him or her by law or this Charter or the Administrative Code. Among such powers and duties, but not by way of limitation, the County Executive shall:

- (a) Execute and enforce all laws and resolutions of the County Legislature;

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- (b) Exercise supervision and control over all administrative departments, offices and agencies of the County government and prescribe the internal organization of such departments, offices and agencies;
- (c) Be the Chief Budget Officer of the County and be responsible for the preparation of the operating and capital budgets of the County in the manner provided by this Charter and the Administrative Code to execute the same in accordance with the resolutions and appropriations made by the County Legislature;
- (d) Be responsible for keeping the County Legislature fully advised as to the financial condition and needs of the County and file with the County Legislature by the first day of March each year an unaudited annual report of the financial affairs and other affairs of the County;
- (e) Appoint, supervise and terminate, except as otherwise herein provided, all executive committees, commissions and boards to assist him or her in exercising his or her executive functions in the planning, formulation and administration of executive programs;
- (f) Appoint without confirmation by the Legislature, to serve at his or her pleasure, such assistants and employees of this office as may be authorized by the County Legislature;
- (g) Make, sign and implement all contracts on behalf of the County within authorized appropriations;
- (h) Approve or disapprove the sufficiency of sureties on official bonds and undertakings;
- (i) Approve or disapprove in writing every proposed local law and resolution and the County budget by specified items, subject to provisions of § 3.04 of this Charter;
- (j) Supervise all central administrative services for the County government, including data processing, tabulation, mail and the messenger service, printing and reproduction, and telephone and related support services;
- (k) Make such recommendations to the County Legislature with respect to the affairs of the County and its government, as he or she may deem appropriate;
- (l) Declare the existence of emergencies affecting the life, health or safety of the inhabitants of the County and, except as otherwise provided by law, exercise all the powers and duties necessary for the protection thereof;
- (m) Perform such other duties and have such other powers as may be prescribed by law or by the County Legislature and have all necessary and incidental powers to perform and exercise any of the duties and functions specified or lawfully delegated to him or her;
- (n) Make any study or investigation in the best interests of the County, including but not limited to any study or investigation of the affairs, functions, accounts, methods, personnel or efficiency of any department, office or agency under his or her jurisdiction and in furtherance of his or her executive functions.

§ 3.03. Appointments by the County Executive.

The County Executive shall appoint all County departments and administrative units not administered by elected officials except as otherwise provided by law or this Charter. Appointments shall be subject to the confirmation of the County Legislature, as specified in this Charter. All appointments by the County Executive shall be made in writing and filed in the office of the Clerk of the County Legislature within ten (10) days after such appointment is made or in the case of an incumbent appointee within ten (10) days of the

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County Executive's new term. Appointees requiring confirmation shall not take office until such confirmation is voted or the time limit for rejection has passed, as provided in § 2.08 hereof.

§ 3.04-A. Executive action on resolutions.

Unless otherwise provided in this Charter, every resolution adopted by the County Legislature, except resolutions establishing the rules and regulations of the Legislature and other matters pertaining solely to the conduct of its own procedures and appointments vested solely in the Legislature by this Charter, shall be submitted to the County Executive for his or her action within five (5) days after passage. Within ten (10) days after receipt of the original enactment as passed by the County Legislature, he or she shall take action approving or vetoing the same.

(a) Approval. In the event of approval by the County Executive, he or she shall endorse the original document and return it to the Clerk of the County Legislature within ten (10) days;

(b) Veto. If vetoed by the County Executive, he or she shall so indicate in writing, setting forth his or her objections to the legislation, and within ten (10) days after receipt thereof return the original document to the Clerk of the County Legislature with his or her veto message attached;

(c) Failure to act. If within the ten-day limit the County Executive shall fail either to approve or veto an enactment as provided above, such enactment shall take effect in due course without his or her endorsement;

(d) Reconsideration. A vetoed enactment shall be resubmitted to the County Legislature together with the veto message at its next regular or special meeting, and such message shall be entered into its journal. Within thirty (30) days after such receipt and entry, the County Legislature may consider the vetoed enactment and pass the same over the County Executive's objections by a favorable vote of two-thirds (2/3) of the whole of its number on a roll-call vote. Only one such reconsideration vote shall be taken on any single vetoed enactment.

§ 3.04-B. Executive action on local laws.

Every local law adopted by the County Legislature shall be submitted to the County Executive for his or her action within five (5) days after passage. Prior to any action by the County Executive and not later than twenty (20) days after receipt of the local law, a public hearing shall be held by the County Executive on public notice of at least five (5) days. Within twenty-five (25) days after receipt of the original enactment as passed by the County Legislature, he or she shall take action approving or vetoing the same.

(a) Approval. In the event of approval by the County Executive, he or she shall endorse the original document and return it to the Clerk of the County Legislature within twenty-five (25) days;

(b) Veto. If vetoed by the County Executive, he or she shall so indicate in writing, setting forth his or her objections to the legislation, and within twenty-five (25) days after receipt thereof return the original document to the Clerk of the County Legislature with his or her veto message attached;

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(c) Failure to act. If within the twenty-five-day limit the County Executive shall fail either to approve or veto an enactment as provided above, such enactment shall take effect in due course without his or her endorsement;

(d) Reconsideration. A vetoed enactment shall be resubmitted to the County Legislature together with the veto message at its next regular or special meeting, and such message shall be entered into its journal. Within thirty (30) days after such receipt and entry, the County Legislature may reconsider the vetoed enactment and pass the same over the County Executive's objections by a favorable vote of two-thirds (2/3) of the whole of its number on a roll-call vote. Only one such reconsideration vote shall be taken on any single vetoed enactment;

§ 3.05. Acting County Executive: how designated; when to act.

The County Executive shall designate in writing within thirty (30) days of assuming office an appointed head of a department or division to perform the duties of the County Executive during his or her absence from the County or his or her inability to act for any reason. Such written designation shall be filed with the Clerk of the County Legislature and may be changed by the County Executive at any time by a new designation filed with the said Clerk. In the event that no Acting County Executive has been so designated, or that he or she is unable to serve during the absence or disability of the County Executive, the Chair of the County Legislature shall designate the head of one of the County administrative units to perform such duties.

§ 3.06. Vacancy in the Office of County Executive.

If a vacancy occurs in the Office of County Executive, it shall be filled at the next general election for the remainder of the unexpired term. Pending such election, the County Legislature shall designate any qualified elector of the county to serve as County Executive. Pending the designation of a County Executive by the County Legislature, the Acting County Executive shall serve.

ARTICLE 4: COUNTY TREASURER

§ 4.01. County Treasurer.

(a) The County Treasurer shall be elected from the County at large beginning in 2015, for a term of four (4) years commencing on the first day of January immediately following his or her election. At the time of his or her election and throughout his or her term of office, the County Treasurer shall be a qualified elector of the County;

(b) The County Treasurer and all full-time managerial employees in the department shall serve on a full-time basis and shall not engage in any private practice nor be employed in their field of expertise with the County by any private or other governmental entity.

§ 4.02. County Treasurer; powers and duties.

The County Treasurer shall have and exercise all the powers and duties now or hereafter conferred or imposed by state law, and shall perform such additional and related duties imposed upon him by local law.

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ARTICLE 5: EXECUTIVE DEPARTMENT

§ 5.01. Department of Purchasing; Purchasing Agent.

There shall be a Department of Purchasing, administered by a Purchasing Agent who shall be appointed by the County Executive, subject to confirmation by the County Legislature. The Purchasing Agent shall hold at minimum a Bachelor's degree and be qualified for his or her position by training and experience, including four (4) years experience as a buyer, purchaser or an equivalent position. He or she shall serve at the pleasure of the County Executive and shall have the authority within budgetary appropriations and in accordance with County policy or as may be otherwise required by law, to appoint and remove such staff as may be necessary. The Purchasing Agent shall not hold any other public or political office, whether elected or appointed, as long as he or she remain in current position of County employment. He or she and all full-time managerial employees in the department shall serve on a full-time basis and shall not engage in any private practice nor be employed in their field of expertise with the County by any private or other government entity.

§ 5.02. The Purchasing Agent: powers and duties.

Except as otherwise provided in this Charter, the Purchasing Agent shall have the power to:

- (a) Make all purchases of equipment, materials and supplies required for any County purpose and contract for the rental and servicing of equipment for all County departments in accordance with the requirements established by law or by the County Legislature;
- (b) Assure suitable specifications or standards for all materials, supplies and equipment to be purchased and assure inspection;
- (c) Make purchases for municipalities or other civil divisions of the County upon the written request of the governing body thereof;
- (d) Have authority to transfer or reassign equipment, material and supplies among offices, departments and agencies of the County upon approval of the County Executive;
- (f) Be responsible for disposing of any surplus, obsolete or unwanted County property in a manner provided by state law;
- (g) Perform such other and related duties as may be required by the County Executive; and
- (h) Perform all the duties now or hereafter conferred or imposed by law.

ARTICLE 5-A: DEPARTMENT, ECONOMIC DEVELOPMENT/PLANNING AND TOURISM

§ 5-A.01. Department of, Economic Development Planning and Tourism; Director.

There shall be a Department of, Economic Development, Planning and Tourism under the direction of a Director who shall be appointed by the County Executive subject to confirmation by the County Legislature. The Director shall serve at the pleasure of the County Executive. The Commissioner shall hold the minimum of a Bachelor's Degree and shall be qualified for his or her position by training and experience including administrative management, supervision of professional planners and of support staff and shall have a minimum of eight (8) years of practical field experience in regional, county

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or municipal planning. He or she shall have the power, within budgetary appropriations, and in accordance with County policy, or as may be otherwise required by law, to appoint and remove such staff as he or she deems to be necessary. The Director shall not hold any other public or political office, whether elected or appointed, as long as he or she remains in his or her current position of County employment. He or she, as well as all full time managerial employees in the department, shall serve on a full time basis and shall not engage in any private practice nor be employed in their field of expertise with the County by any private or other governmental entity, except any such employee hired prior the adoption of this Charter.

§ 5-A.02. Director of Economic Development, Planning and Tourism: powers and duties.

Except as otherwise provided in the Charter, the Director shall have the power for or to:

(a) Oversight and responsibility for the development, promotion and implementation of the County Economic Development Program, to include by not limited to: administrative support of the Montgomery County Industrial Development Agency, Montgomery County Business Development Center, Business Park Development and Business Recruitment, Retention and Expansion Programs;

(b) Conduct technical evaluation, prepare proposals, position papers, plans, letters, memorandum and/or reports on County issues, programs and projects as required by the County Executive;

(d) Administer Montgomery County transit operations, including the coordination of public transportation services with local, state, county and regional public transit providers, the management of the County's transportation operations and the compliance with all federal and state laws and regulations related to public transit operations as well as the program requirements of the New York Metropolitan Transportation Council;

(e) Conduct and/or supervise the preparation of planning studies related to comprehensive master planning regarding County development and the wise use of resources in Montgomery County including, but not limited to, transportation, land use, open space, recreation, County facilities, farmland, natural and cultural resources, public works, parks, demographic and socio-economic data and ground water. Planning studies shall be transmitted to the County Executive for submission to the County Legislature;

(d) Represents the County in dealings with various local, regional, state and federal agencies as well as with the private sector regarding County resources and planning, development and transportation matters;

(e) Research available grant programs at the local, state and federal levels as well as through other revenue sources and prepare all applications associated therewith so as to obtain the available financial assistance for County programs;

(f) Plan and implement all bikeway trail projects;

(g) Exercise all the powers and duties prescribed by law for a county or regional planning board, pursuant to General Municipal Law, Article 12-B, § 239 (m);

(h) Assist the County Executive in executive planning including the preparation and planning of the capital budget and capital programs;

(i) Provide education and training programs to local municipalities in relation to transportation, planning, development and the environment;

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- (j) Perform analyses of the U.S. Census data, which is conducted once every ten (10) years, as member of the New York State Data Center Affiliate Program and provide assistance to the public, not-for-profit agencies and other municipalities regarding the Census and other data relevant to Montgomery County;
- (k) Review and prepare recommendations and comments on all municipal referred projects involving the State Environmental Quality Review Act as well as prepare all forms associated therewith on behalf of the County when necessary;
- (l) Perform such other and related duties as may be required by the County Executive;
- (p) Perform all the duties now or hereafter conferred or imposed by law;
- (q).Oversee the Montgomery County Tourism program.

ARTICLE 6: DEPARTMENT OF PERSONNEL

§ 6.01. Department of Personnel; Personnel Officer.

There shall be a Department of Personnel under the direction of a Personnel Officer who shall be appointed by the County Executive subject to confirmation by the County Legislature. The Personnel Officer shall be appointed for a six-year term in accordance with Section 15 of the New York State Civil Services Law. He or she shall be appointed on the basis of his or her training and experience in personnel administration and other qualifications for the responsibilities of his or her office. The Personnel Officer shall have the power, with budgetary appropriations and in accordance with County policy or as may be otherwise required by law to appoint and remove such staff as may be necessary. Except as otherwise provided in this Charter the Personnel Officer shall have the power to:

- (a) Exercise all the powers and perform all the duties of a personnel officer as provided by the New York State Civil Service law;
- (b) Prepare and administer personnel rules for County officers and employees subject to approval by the County Executive and as otherwise provided by law;
- (c) Assist the County Executive in negotiations and administration on behalf of the County for personnel contract agreements with recognized employee representatives;
- (d) Be responsible for a comprehensive salary plan for the County, job training and development for employees and labor relations with County employees through the bargaining units in the County;
- (e) Be responsible for administration and coordination of all benefit programs and plans for all current County employees and eligible retired employees, as appropriate;
- (f) Administer civil service laws, rules and regulations for all Montgomery County departments, towns, villages, school districts, public libraries and special districts;
- (g) Provide certification for payroll by reviewing County officer's and employee's appointments and confirming that the appointments are in compliance of the law, rules and regulations;
- (h) Perform such other and related duties as may be required by the County Executive; and
- (i) Perform all the duties now or hereafter conferred or imposed by law.

§ 6.02. Powers and duties of the Director of Personnel.

Except as otherwise provided in this Charter the Director of Personnel shall:

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- (a) Exercise all the powers and perform all the duties of a municipal civil service commission or personnel officer as provided by the Civil Service Law;
- (b) Prepare and administer personnel rules for County officers and employees subject to approval by the County Executive and as otherwise provided by law;
- (c) Assist the County Executive in negotiations and administration on behalf of the County for personnel contract agreements with recognized employee representatives;
- (d) Be responsible for the maintenance of a comprehensive salary plan, workman's compensation and for job training and development;
- (e) Perform such other and related duties as may be required by the Administrative Code, local law or the County Executive.

ARTICLE 7: FINANCIAL CONTROL

§ 7.01. Legislative control.

Control of the financial affairs of the County government shall reside in the County Legislature, which may at any time cause an examination and audit of the books, records and papers pertaining to the money, funds or other property belonging to the County or over which the County shall have control.

§ 7.02. Fiscal year.

The fiscal year of the County shall begin with the first day of January and end with the last day of December.

§ 7.03. Annual operating budget.

A. Preparation of the tentative budget.

1. On or before the 15th day of June in each year the County Legislature shall notify the County Executive in writing of any changes to the policy and practice guidelines previously adopted by the Legislature for determining expenditures, limits and priorities.

2. Notification of dates and data. The County Executive shall notify, in writing, the head of each administrative unit and authorized agency receiving County funds during the fiscal year of:

(a) The date fixed to receive estimates of revenues and expenditures for the ensuing fiscal year;

(b) The forms and information to be contained in such estimate and request;

(c) Such policy guidelines as may be provided by the County Legislature for determining expenditures, limits and priorities;

(d) This notification shall be sent to the head of each administrative unit and authorized agency not less than thirty (30) days prior to the date fixed for the submission of requests;

3. Submission of estimates and appropriation requests. On or before the fifteenth (15th) day of July in each year, or such earlier date as the County Executive may prescribe, the head of each unit of County government or authorized agency shall furnish to the County Treasurer an estimate of revenues and expenditures of his or her respective unit or authorized agency for the ensuing fiscal year, exclusive of capital projects. The estimates of each unit shall show the sources of revenues and the character and object of expenditures, which may be sub-classified by functions and activities. The estimate of each unit shall be subdivided according to the internal organization of such unit.

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Estimates shall be submitted in such form and shall contain such additional information as the County Executive and the County Treasurer shall require, and the estimate of expenditures shall constitute or be accompanied by a request for an appropriation. Such estimates shall be based on and shall be accompanied by a tentative work program by each unit or authorized agency.

4. Review of requests. The County Treasurer, upon receipt of the estimates and requests for appropriations, shall proceed to make such review and investigation thereon, as he or she may deem necessary. He or she may require the head of each unit or any officer or employee thereof and any authorized agency requesting County funds to furnish, data and information and answer inquiries pertinent to such review or investigation. Members of the Legislature, the Clerk of the Legislature and the County Auditor shall be entitled to attend and participate in all such meetings and hearings.

5. Tentative County budget.

(a) Upon completion of the review and investigation of the estimates and requests from the various units and authorized agencies, the County Treasurer shall prepare, under the direction of the County Executive, the tentative County budget for the ensuing fiscal year for both current operating and capital purposes;

(b) The tentative budget shall be filed with the Clerk of the Legislature on or before the fifth (5th) day of September. The tentative budget shall include such information and detail as may be requested by the Legislature pursuant to § 7.04A2(c);

(c) The tentative budget shall include, without modification by the County Executive, such line item appropriation requests for the County Legislature and the Clerk of the County Legislature as are submitted by the Chair of the Legislature. This budget request shall be submitted to the County Treasurer in writing before the fifteenth (15th) day of August;

6. Estimated revenues. The estimated revenues in the tentative County budget shall be classified by accounts and units of County government, shall show sources of income and shall contain:

(a) A statement of all revenues which, it is estimated will be received by the County during the ensuing fiscal year, except from taxes to be levied;

(b) A statement of all unexpended balances, if any, at the end of the last completed fiscal year which are available to meet the expenditure requirements of the fiscal year for which the tentative budget is being prepared;

(c) An estimate of anticipated receipts from delinquent taxes, which shall not exceed the amount received in the previous fiscal year.

7. Additional data concerning debt. In addition to items of operation and maintenance, the tentative County budget shall include or be supplemented by a statement showing the bonded indebtedness of the County government and its agencies, the debt redemption and interest requirements, the indebtedness authorized and unissued, the condition of the capital reserve funds and the borrowing capacity of the County, and any other matter which the County Executive may deem advisable and the County Legislature may require.

8. Budget message. The tentative County budget shall be accompanied by the budget message from the County Executive. The budget message shall include an outline of the

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fiscal policy of the County government, a description of the important features of the budget with reference both to proposed expenditures and anticipated income. It shall include a request for an appropriation for the ensuing fiscal year.

B. Adoption of the annual operating budget.

1. Submission to the Legislature. The Clerk of the Legislature, upon receipt of the tentative budget from the County Executive as provided in § 7.04A5(b), shall transmit a copy of said tentative budget to each legislator and cause copies to be printed and made available to the public.

2. Preliminary review. The County Executive and County Treasurer shall meet with the Budget and Finance Committee of the Legislature within five (5) days after the transmittal of the tentative budget to review the document with said Committee.

3. Review by the Budget and Finance Committee. The Budget and Finance Committee of the Legislature shall conduct a public hearing on the tentative budget as submitted by the County Executive. The County Executive and the County Treasurer shall be present to answer questions about the budget. The Budget and Finance Committee shall then review the tentative budget submitted by the County Executive and shall file a report with the Clerk of the County Legislature on or before the twenty-fifth (25th) day of September. The report shall include any recommendations made by the Budget and Finance Committee. Copies of the report shall be made available to the public.

4. Public hearing by the County Legislature. On or before the fifth (5th) day of October, the County Legislature shall conduct a public hearing on the tentative County budget submitted by the County Executive and the report of the Budget and Finance Committee of the Legislature.

5. Legislative action after hearing. Following completion of the public hearing and prior to the tenth (10th) day of October, the Chair of the County Legislature shall convene a regular or special meeting of the county Legislature to consider for adoption the annual budget. The County Legislature may strike items of appropriations or anticipated revenues from the tentative budget or reduce items therein, excepting appropriations required by law for debt service, or add to or increase all such appropriations or revenue items in such budget. The Legislature shall state separately and distinctly any change and provide along with the budget it adopted a legislative memorandum detailing its amendments to the tentative budget.

6. Legislature's failure to act. If a budget has not been adopted, as herein provided, on or before the fifteenth (15th) day of October, the tentative budget as submitted by the County Executive shall be the budget for the ensuing fiscal year.

7. Executive veto. Within three (3) business days following the adoption of said annual budget by the Legislature, the Clerk of the Legislature shall forward to the County Executive the changes made by the County Legislature in the tentative budget for approval or veto by the County Executive. The County Executive shall approve or veto any or all such changes by line item and return the same to the Clerk of the Legislature on or before the twenty-third (23rd) day of October together with a message containing justification of each line item veto. If no action is taken by the County Executive on or before the twenty-third (23rd) day of October, he or she shall be deemed to have approved the amendments.

8. Legislative reconsideration. Upon receipt of the veto message from the County Executive, the Chair of the Legislature shall convene the County Legislature on or before

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the thirty-first (31st) day of October for the purpose of reconsidering each vetoed item. Following such final action of the Legislature, the tentative budget, as amended by the legislative revision and approved by the County Executive, and items vetoed by the County Executive but overridden by the County Legislature by an affirmative vote of at least two-thirds (2/3) of the whole number of its members, shall become the final annual budget for the ensuing fiscal year.

9. Appropriations resolution. Upon adoption of the final annual budget, the County Legislature shall adopt an appropriations resolution to provide for the conduct of County government for the ensuing fiscal year.

§ 7.04. Capital program and capital budget.

A. Definitions.

1. The term "capital project" as used herein shall mean:

- (a) Any physical betterment or improvement, including furnishings, machinery, apparatus or equipment for such physical betterment or improvement;
- (b) Any preliminary study and/or surveys relating to any physical betterment or improvement;
- (c) Any acquisitions of land or rights in the land; or
- (d) Any combination of "a," "b" and "c" above.

2. The term "capital program" as used herein shall mean the program which, consists of capital projects for the ensuing six (6) fiscal years and considers the feasibility of all proposed capital projects in reference to their necessity, priority, location, cost and method of financing.

B. Preparation of the capital program and the capital budget.

1. Preparation and submission of the capital projects requests. On or before the fifteenth(15th) day of March, the County Executive shall furnish all necessary forms to the head of each administrative unit of County government or authorized agency receiving County funds for the ensuing fiscal year for capital projects. The capital project requests must include the description, justification and estimate of costs for each capital project request proposed during the ensuing six (6) years. On or before the fifteenth (15th) day of April, the head of each administrative unit of County government or authorized

agency shall file his or her capital requests, including accompanying documentation with the County Executive.

2. Preliminary review by the Department of Economic Development, Planning, and Tourism. Upon receipt of the proposed capital project requests from the County Executive, the Department of Economic Development, Planning, and Tourism shall review the information provided therein. On or before the fifteenth (15th) day of June, the Department of Economic Development, Planning, Development and Tourism shall submit a report to the County Executive which shall include a compilation of the capital project requests, an opinion of each capital project request in relation to the long-range capital needs of the County, any recommendation of additional capital projects requests in order of priority to the County.

3. Review by the Capital Projects Committee. There shall be a Capital Projects Committee consisting of the County Executive as Chairman, the **County Treasurer** as

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Vice-Chairman, the Director of Economic Development, Planning, and Tourism, the Commissioner of Public Works, the Chairman of the County Legislature, a designee of the Budget and Finance Committee and a one other member of the County Legislature, to review the capital project requests in consideration of the capital program and the capital budget.

(a) The Capital projects Committee shall meet each year during the period between the fifteenth (15th) day of June through the first (1st) day of August, as directed by the Chairman of this Committee, and shall prepare a report, including a proposed capital budget for the ensuing fiscal year and a proposed capital program for the next six (6) years, for both existing and newly proposed capital projects.

(b) The report shall also indicate the order of priority of each proposed capital project and shall state the following:

- i. A description of the project and the estimated total cost thereof.
- ii. The proposed method of financing, indicating the amount proposed to be financed by direct budgetary appropriation; the amount, if any, estimated to be received from the federal and/or state governments; and the amount to be financed by the issuance of obligations, showing the proposed type or types of obligations, together with the period of probable usefulness for which they are proposed to be issued.
- iii. An estimate of the financial impact, if any, upon the operating budget of the County for each of the next six (6) fiscal years.

(c) On or before the first (1st) day of August, such Committee shall submit the written report to the County Legislature and to the County Executive to be included with the submission of the tentative annual operating budget.

4. Preparation of the capital program and the capital budget. The County Treasurer shall prepare the proposed capital program and the proposed capital budget under the direction of the County Executive. The proposed capital budget shall include the amount proposed for the capital program to be financed by direct budgetary appropriation for the ensuing fiscal year and shall indicate the proposed down payments and other expenditures for the new capital projects and shall provide all proposed capital financing, including but not limited to reserve funds, sinking funds, current revenues, temporary borrowing, bond sales, federal and state grants, loans or advances. The capital budget for the ensuing fiscal year shall be incorporated into the tentative annual operating budget and shall be submitted to the Legislature by the fifth (5th) day of September in accordance with § 7.04(A)(5) of this Charter.

C. Monthly Report.

The Chairman of the Capital Projects Committee, or his/her designee, shall report on a monthly basis to the Physical Services Committee of the County Legislature and provide a detailed status report on all capital projects.

§ 7.05. Levy of taxes and reserve for uncollected taxes.

The net County tax requirement, determined by subtracting the total estimated revenues from the total proposed expenditures as set forth in the adopted budget shall be levied in advance of the start of the fiscal year by the County Legislature upon the taxable real property of the several tax districts of the County. The taxes so levied shall include an amount to be known as "reserve for uncollected taxes," which shall be a County charge.

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The Legislature shall fix the amount of such sum, as they deem sufficient to ensure the receipt of the required amount of cash from real property taxes.

§ 7.06. Supplemental appropriations; transfers of appropriations; reduction of appropriations.

A. The County Legislature may make supplemental appropriations for any fiscal year to the amount so certified, if during that fiscal year the County Executive certifies that monies are available for such appropriations from the following:

1. Revenues received from sources not anticipated in the budget for that year;
2. Revenues received from anticipated source in excess of the budget estimates therefore;

or

3. Unappropriated cash surplus.

B. In addition:

1. If at any time during the fiscal year it appears to the County Executive that the revenues available (exclusive of unappropriated fund balance) will be insufficient to meet the amount appropriated, the County Executive shall report to the Legislature without delay the estimated amount of such insufficiency and his or her recommendations for further action. The Legislature shall consider his or her recommendations for further action. The Legislature shall take such action, as it deems necessary to prevent or minimize the deficit.

2. In the alternative, if at any time during the fiscal year it appears, as evidenced by a majority vote of the Legislature, that the revenues available (exclusive of unappropriated fund balance) will be insufficient to meet the amount appropriated, the Legislature shall request the County Executive to report to the Legislature without delay the amount of such insufficiency and his or her recommendations for further actions. The Legislature shall consider his or her recommendations for further action. The Legislature shall take such action as it deems necessary to prevent or minimize the deficit.

3. In the event the County Executive fails to report to the Legislature within 30 days of said request for the recommendations for further action, then the Legislature by a two-thirds vote shall take such action as it deems necessary to prevent or minimize the deficit, including reducing one or more appropriations, but no appropriation for debt service shall be reduced and no appropriations may be reduced by more than the encumbered balance thereof. The Legislature may also, if it desires, borrow temporarily pursuant to the local finance law in an amount not greater than the deficit for such purpose.

C. No money shall be spent by the County or any agency thereof, nor shall any obligation for the spending of money be incurred, unless in the pursuance of the annual budget therefore, except as provided in this section. Transfers of appropriations between general classifications of expenditures within the same unit of County government shall be as set by local law. The written recommendation of the County Treasurer shall certify the aggregate amount of all previous transfers made into or out of the subject accounts in the same fiscal year, and a copy of such certification shall be forwarded to the County Audit Department and to the Finance Committee on a monthly basis.

§ 7.07. Budget controls; work programs; allotments.

No County officer, employee, administrative unit or other authorized agency shall, during a fiscal year expend any money or incur any liability in excess of the line item amounts

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appropriated and available in the operating budget or authorized to be borrowed by the County Legislature. The unexpended balance of each current appropriation, less the encumbrances outstanding at the close of the fiscal year for which it was made, shall lapse at the close of such fiscal year except for appropriations made for the construction of permanent physical improvement or works not to be completed during that fiscal year or for funds established to accomplish some specific purpose until the purpose for which it was made shall have been accomplished or abandoned.

§ 7.08. Financial reporting.

On or before the fifteenth (15th) day of March of each year, at a regular or special meeting of the Montgomery County Legislature, the County Executive shall present a State of the County Address. This report will include a review of the important highlights of the Annual Report submitted by the County Treasurer pursuant to § 4.02(f) of this Charter, and by the County Executive pursuant to § 3.02(d) of this Charter. Further, the County Executive shall present each legislator with a summary and written report as prepared by the management of each County administrative unit or County department under the supervision of the Executive Branch. The County Executive shall be expected to inform the County Legislature of current trends in the cost, quality of delivery of service, and a current assessment of the need of each of the above described units and departments under his or her supervision. The County Executive shall also, at this time, report on the potential impact on the County budget of intergovernmental assistance.

Members of the County Legislature shall, at the conclusion of the County Executive's address, have an opportunity during this meeting to ask questions or otherwise seek clarification from the County Executive.

ARTICLE 8: DEPARTMENT OF LAW

§ 8.01. Department of Law -- County Attorney

There shall be a Department of Law under the direction of a County Attorney who shall be appointed by the County Executive, subject to confirmation by the County Legislature. At the time of his or her appointment, and throughout his or her term of office, the County Attorney shall be and remain duly licensed and entitled to practice law in the State of New York. He or she shall be appointed on the basis of his or her legal experience and other qualifications for the responsibilities of his or her office. The County Attorney may not represent any Municipality while in office. The County Attorney may be removed by the County Executive, subject to a two-thirds vote of concurrence by the County Legislature. The County Attorney may also be removed by the County Legislature by a two-thirds vote by the Legislature if he or she refuses to comply with § 8.05 of this article.

§ 8.02. County Attorney; powers and duties.

Except as may otherwise be provided in this Charter, the County Attorney shall, with respect to County civil matters:

- (a) Be the sole legal adviser for the County and its administrative units, including its officers;
- (b) Prepare all necessary legal papers and instruments;

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- (c) Prosecute or defend all civil matters or proceedings involving the County and its units, including its officers;
- (d) Prepare local laws, resolutions, legalizing acts or other legislation upon request of the County Executive or a member of the County Legislature, together with notices and other documents in connection therewith;
- (e) Execute all tax foreclosure proceedings required in the name of the County;
- (f) Have all the powers and perform all the duties conferred or imposed by law on a County Attorney, and perform such other and related non-conflicting duties required by the County Executive or the County Legislature.

§ 8.03. Deputy County Attorneys and staff: appointment; revocation.

The County Attorney may appoint such Deputy County Attorneys, assistants and employees of his or her department as shall be authorized by the County Legislature, including a confidential secretary, who shall be in the exempt class of the Civil Service. At the time of his or her appointment, and throughout his or her term of office, each Deputy County Attorney shall be and remain duly licensed to practice law in the State of New York.

§ 8.04. Acting County Attorney.

The County Attorney, subject to approval of the County Executive, shall designate in writing and in order of succession the Deputy County Attorneys who shall be acting County Attorney in the event of his or her absence from the County or inability to perform and exercise the powers and duties of his or her office. Such designation shall be filed with the County Executive and the Clerk to the County Legislature and may be revoked at any time by the County Attorney by filing a new written designation and order of succession. The Acting County Attorney shall have all the powers and perform all the duties of the County Attorney.

§ 8.05. Conflicts.

Whenever the interests of the County Executive and the Legislature are inconsistent, the County Attorney shall represent the interests of the Legislature. In such event, nothing herein shall be construed to deny the County Executive access to obtaining legal counsel at County expense. The County Attorney shall comply with any and all lawful and permissible resolutions, which may be adopted by the Legislature. If said resolution is vetoed by the County Executive, the County Attorney shall represent the Legislature only where the veto is overridden. If the override fails, the County Attorney shall represent the will of the County Executive.

§ 8.06. Special counsel.

The County Attorney shall have the power to retain special counsel, subject to appropriations made by the County Legislature.

ARTICLE 9: DEPARTMENT OF PUBLIC WORKS

§ 9.01. Department of Public Works: Commissioner.

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There shall be a Department of Public Works headed by a Commissioner of Public Works appointed by the County Executive, subject to confirmation by the County Legislature. The Commissioner of Public Works shall be qualified by training and experience for his or her position. He or she shall serve at the pleasure of the County Executive. Within appropriations therefore, he or she shall appoint a staff to implement the duties of this office as detailed in § 9.02 of this Charter.

§ 9.02. Powers and duties.

Except as otherwise provided in this Charter, the Commissioner of Public Works shall:

- (a) Have all the powers and duties of a County Engineer and County Superintendent of Highways pursuant to the Highway Law, Town Law or other applicable laws;
- (b) Have charge and supervision of the design, construction, improvement, maintenance, repair, cleaning and lighting of all highways, roads, streets, bridges and grade separation structures under jurisdiction of the County;
- (c) Have charge and supervision of the design, construction and alteration of County buildings, parking areas, drives, walks, docks, parks and such other structures and facilities in the nature of public works under the jurisdiction of the County;
- (d) Have charge and supervision of the maintenance and repair of all County buildings to include custodial care of such buildings;
- (e) Have charge and supervision of the maintenance and operations of County parks, trails and preserves.
- (f) Operate and maintain facilities for providing mailing as may be authorized by the County Executive or the County Legislature;

ARTICLE 10: HUMAN RESOURCES SERVICES

TITLE I Department of Social Services

§ 10.01. Department of Social Services; Commissioner.

There shall be a Department of Social Services under the direction of a Commissioner of Social Services who shall be appointed by the County Executive and serve 5-year terms, subject to confirmation by the County Legislature. The Commissioner of Social Services shall be appointed on the basis of his or her administrative experience and qualifications for the duties of the office for the term provided by law. The Commissioner shall have the power, within budgetary appropriations; to appoint such staff of his or her department as may be necessary to implement the duties of this office as set forth herein.

§ 10.02. Commissioner of Social Services; powers and duties.

The Commissioner of Social Services shall perform the duties prescribed by law and such additional and related duties as are required by the County Executive.

TITLE II Department of Health

§ 10.03. Department of Health; Public Health Director.

(a) There shall be a Department of Health under the direction of a Public Health Director who shall be appointed by the County Executive, subject to confirmation by the County

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Legislature. For the appointment of a Public Health Director, such person shall possess a combination of education and experience deemed appropriate by the State Commissioner of Health;

(b) All appointments to the position of Public Health Director and the appointment and arrangements for the medical consultant are subject to the approval of the State Commissioner of Health;

(c) The Director shall be directly responsible to and serve at the pleasure of the County Executive, unless otherwise provided by law;

(d) The Public Health Director shall serve on a full-time basis and shall not be employed nor engage in any private practice in their field of expertise;

(e) All full-time managerial employees in the department who are professionally licensed shall not engage in any private practice, nor be employed in their field of expertise with the County, by any private or governmental entity.

§ 10.04. Powers and duties.

Except as otherwise provided in this Charter, the Director of Public Health shall have all the powers and perform all the duties conferred or imposed upon a County Health Director and upon county boards of health by the Public Health Law or any other law. He or she shall perform such other and related duties as are required by the County Executive or the County Legislature.

TITLE III Department of Community Services

§ 10.05. Department of Community Services; Director.

There shall be a Department of Community Services under the supervision of a Director of Community Services who shall be appointed by the County Executive upon the recommendation of the Community Services Board (Need to check on this) and subject to confirmation by the County Legislature. The Director of Community Services shall meet the qualifications prescribed by the Mental Hygiene Law and the State Commissioner of Mental Hygiene. He or she shall be directly responsible to and serve at the pleasure of the County Executive.

§ 10.06. Powers and duties.

Except as otherwise provided in this Charter, the Director of Community Services shall have all the powers and perform all the duties now or hereafter conferred or imposed by law upon a Commissioner of community mental health services and shall perform such other and related duties required by the Administrative Code, local law, the County Executive or the Community Services Board.

§ 10.07. Community Services Board.

Within the Department of Community Services there shall be a Community Services Board consisting of nine (9) members who shall be appointed by the County Legislature in the manner and for the term provided in the Mental Health Law. It shall be mandatory, however, that the County Executive or his or her designee be one of the members. The Board shall have all the powers and perform all the duties now or hereafter conferred or

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imposed by law upon a community mental health board except that it shall not have the power to appoint or remove the Commissioner of Mental Health, to fix his or her compensation and expenses, to exercise supervisory authority over the Commissioner of Mental Health and to audit and approve claims over the Commissioner of Mental Health and to audit and approve claims of the Department of Mental Health.

ARTICLE 11: OTHER ELECTED OFFICIALS

§ 11.01. County Clerk.

There shall be elected from the County at large a County Clerk. The County Clerk shall be elected for a four-year term and, at the time of his or her election and throughout his or her term of office, shall be a qualified elector of the County. He or she shall hold no other elected public or elected political office during his or her term of office and shall devote his or her full working time to the duties of the office. The County Clerk shall be the official registrar of the County and, except where inconsistent with this Charter, the County Clerk shall have and exercise all powers and duties now or hereafter conferred or imposed by applicable law.

§ 11.02. District Attorney.

There shall be elected from the County at large a District Attorney. The District Attorney shall be elected for a term of office as prescribed by law and, at the time of his or her election and throughout his or her term of office, shall be a qualified elector of the County and shall be duly admitted to the practice of law in the State of New York. The District Attorney shall have and exercise all powers and duties now or hereafter conferred or imposed by applicable law.

§ 11.03. County Sheriff.

There shall be elected from the County at large a County Sheriff. The Sheriff shall be elected for a four-year term of office and, at the time of his or her election and throughout his or her term of office, shall be a qualified elector of the County.. He or she shall hold no other elected public or elected political office during his or her term of office and shall devote his or her full working time to the duties of the office. The Sheriff shall perform the duties prescribed by law as an officer of the court and conservator of the peace within the County. The Sheriff shall have and exercise all the powers and duties now or hereafter conferred or imposed by applicable law, and shall perform such additional and related duties as may be directed by the County Legislature

ARTICLE 12: OTHER COUNTY FUNCTIONS

TITLE I Other County Functions

§ 12.01. Board of Elections; Commissioners.

There shall be a Montgomery County Board of Elections constituted according to state law. The Commissioners of Elections shall be appointed by the County Legislature in accordance with the State Election Law, and shall have and exercise all powers and duties now or hereafter conferred or imposed by applicable law. The certificate of party

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recommendation required by § 3-204 of the Election Law shall be filed with the Clerk of the Legislature at least 30 days but no more than 60 days before the 1st day of January in any year in which a Commissioner of Elections must be appointed.

§ 12.02. Office of Probation; Director.

There shall be an Office of Probation headed by a Director of Probation appointed in the manner provided by state law. The Director of Probation shall have and exercise all powers and duties now or hereafter conferred or imposed by applicable law.

§ 12.03. Sealer of Weights and Measures.

There shall be a County Sealer of Weights and Measures who shall be appointed by the County Executive subject to confirmation by the County Legislature on the basis of experience and qualifications for the office. He or she shall have and perform all the powers and duties now or hereafter conferred or imposed by applicable law.

§ 12.04. Public Defender's Office- Legal counsel to indigent defendants.

Montgomery County shall fulfill its obligation to provide legal counsel to indigent defendants in criminal matters and Family Court matters as required by law and as the County Legislature may approve. The Public Defender shall be appointed by the County Executive subject to confirmation by the County Legislature and serve for four-year terms.

§ 12.05. Coroner.

The office of Coroner in Montgomery County is hereby continued. The office shall be filled by the election of two County Coroners to a four-year term, each serving specific districts in the County. One district consisting of the City of Amsterdam, the Town of Amsterdam and the Town of Florida, the other consisting of the remaining County. The coroner shall have the powers and perform all the duties now or hereafter conferred or imposed by law and perform such other and related duties as required by the County Executive and the County Legislature. The County Executive shall appoint a Head Coroner, subject to confirmation by the Legislature. The duties of the Head Coroner shall be:

- (a) To coordinate the schedules of the coroners of the County of Montgomery to insure that there is twenty-four (24) hour coverage, seven (7) days a week;
- (b) To prepare and submit on behalf of the coroners the estimates of revenues and appropriations for the ensuing fiscal year as prescribed under § 7.04.A(3) of the Montgomery County Charter;
- (c) To recommend to the County Executive standardized forms for use by all the coroners of the County of Montgomery;
- (d) To insure that the Office of the Coroners in the County of Montgomery is complying with all statutes, laws, rules and regulations of both the state and the county.

§ 12.06. All other County offices and boards.

All other County boards, agencies, offices and functions shall continue as provided by law, and that members thereof required shall be appointed by the County Executive, subject to confirmation the County Legislature. There shall be a County Emergency

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Services Safety Advisory Board appointed by the County Executive and confirmed by the Montgomery County Legislature. The Director of the County Youth, ATI and Veterans Services shall be appointed by the County Executive, as provided by State Executive Law § 357.

§ 12.7. Miscellaneous administrative functions.

Administrative units and functions not otherwise assigned by this Charter, the Administrative Code or other acts or resolutions of the County Legislature may be assigned by the County Executive to units within the County government.

§ 12.8. Department of History and Archives.

There shall be a Director of History and Archives appointed by the County Executive, subject to confirmation by the County Legislature upon the basis of his or her experience and qualifications for the office. The Director of History and Archives shall preserve, interpret and promote the history of Montgomery County and shall have all the powers and perform all the duties conferred or imposed by applicable law.

TITLE II Bureau of Emergency Services

§ 12.9. Department of Emergency Management; Director.

There shall be a Department of Emergency Management under the supervision of a Director of the Department of Emergency Management who shall be appointed by the County Executive. Such appointment subject to confirmation of the County Legislature. He or she shall be appointed on the basis of his or her training and experience in the administration of emergency services efforts.

§ 12.10. Staff: appointment, revocation.

The Director of the Department of Emergency Management shall appoint, within budgetary appropriations, such deputies, assistants, staff and other employees of his or her department as may be necessary. All emergency services coordinators, deputies, assistants, employees and staff of the department shall be directly responsible to and shall serve at the pleasure of the Director of the Department of Emergency Management.

§ 12.11. The Real Property Tax Services.

The Real Property Tax Services shall be headed by a Director of Real Property Tax Services who shall be appointed by the County Executive subject to confirmation by the Legislature. He or she shall be chosen on the basis of his or her knowledge of the principles and methods relating to the assessment of real property and of his or her executive and administrative experience. He or she shall serve at the pleasure of the County Executive, unless provided otherwise by law. He or she shall be supervised by and report to the County Executive. He or she shall meet the qualifications and standards established by the State Board of Equalization and Assessment, and shall complete such courses of training and education as shall be prescribed by said Board. The Real Property Tax Services shall be responsible for ascertaining, spreading, entering and extending taxes levied by the County Legislature for all state, County, town and special districts' purposes. The director's duties shall include the preparation of tax rolls and the issuance of tax bills for those taxes. He or she shall also have all the powers and duties heretofore

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or hereafter conferred upon directors of the Real Property Tax Services of a County as may be prescribed by the laws of the State of New York or by local law.

ARTICLE 13: INTERMUNICIPAL RELATIONS

§ 13.01. Local government functions, facilities and powers not transferred, altered or impaired.

No function, facility, duty or power of any town, village, school district or other district is transferred, altered or impaired by this Charter.

§ 13.02. Contracts for municipal corporations.

The County of Montgomery shall have the power to contract with any public corporation, including but not limited to municipal, district or public benefit corporations, or with any combination of the same, for the establishment, maintenance or operation of any facility or the rendering of any service which each of the contracting parties would have legal authority to establish, maintain, operate or render for itself. Each of such contracting parties shall bear a proportionate share of costs agreed upon.

ARTICLE 14: REAPPORTIONMENT

§ 14.01. Commission on Reapportionment.

(a) Within 30 days after the publication of the results of the 2020 federal census, and within 30 days of each regular decennial census thereafter, a Commission on Reapportionment shall be convened in order to evaluate the then-existing county legislative districts for equality in population;

(b) The Commission shall consist of nine members, with no more than one member a resident of each then-current legislative district. No member of the commission shall be a current county employee or county elected official. No more than three members of the commission may be registered voters of any one party;

(c) The members of the commission shall be chosen in the following order: two shall be appointed by the minority party or parties represented on the legislature, two shall be appointed by the Chair of the County Legislature, and two shall be appointed by the County Executive. Following these first selections, each appointing authority shall appoint one additional member, in the same order;

(d) The Commission shall convene for its organizational meeting at the call of the County Executive, and shall at that meeting elect a chairman from among its numbers. It shall develop proposed districts in the form of a local law, keeping districts compact and contiguous while also taking into account existing town, city, village, and school district lines, election district boundaries, and the then-current legislative districts, as well as geographic features. The Commission shall give no consideration, however, to political party registration or affiliation;

(e) All meetings of the Commission shall be open to the public. The Commission shall hold no fewer than three public hearings to solicit the views of county residents and elected officials regarding the redistricting plan. Within 90 days its first meeting, the Commission shall present a draft map and draft local law to the County Legislature. Within 60 days, the County Legislature may vote to make changes to the local law,

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provided that any changes must be approved by a two-thirds vote of the Legislature. Should the 60-day period pass without any action by the legislature, the local law shall be deemed adopted. Should the legislature choose to amend the law by a two-thirds vote, the law as amended shall be subject to a permissive referendum.

ARTICLE 15: GENERAL AND TRANSITIONAL PROVISIONS

§ 15.01. Amendment of the Charter.

A Charter amendment may be proposed by a member of the County Legislature, the County Executive or the Legislative bodies of any of the towns or villages of the County. The proposal must then be enacted by a local law passed by a two-thirds (2/3) vote of the County Legislature subject to referendum on petition as provided in the Municipal Home Rule Law. Any proposed amendment which would have the effect of transferring a function or duty of the County or of a town, village, district or other unit of local government of the County shall not become operative unless it is approved by mandatory referendum. Any amendment which would create or abolish an elected office; change the power of an elected County officer during his or her term of office; abolish, curtail or transfer to another County officer or agency any power of an elected County officer, or change the method of election of the County Legislature, but not including decennial reapportionment, shall be subject to a permissive referendum.

§ 15.02. Transition.

If any provision of this Charter is not clear or requires elaboration in its application to the County, the County Legislature may interpret such provision in a local law not inconsistent with the provisions of the Municipal Home Rule Law.

§ 15.03. Adoption of an Administrative Code.

The Administrative Code shall be adopted by local law.

§ 15.04. Anti-discrimination clause.

Words of the masculine gender include the feminine and the neuter, and may refer to a corporation, or to a board or other body or assemblage of persons or other legal entity and, when the sense so indicates, words of the neuter gender may refer to any gender.

§ 15.05. Execution of contracts.

All contracts entered into by the County shall be executed in the manner provided in this Charter or as directed by the County Legislature.

§ 15.06. Separability.

If any provision of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operations to the particular provision directly involved in the controversy.

§ 15.07. Charter to be liberally construed.

This Charter shall be liberally construed to achieve its objectives and purposes.

MONTGOMERY COUNTY CHARTER

§ 15.08. Judicial Notice. The courts shall take judicial notice of this Charter and of all local laws, ordinances, legalizing acts, resolutions, codes and regulations adopted or promulgated pursuant to this Charter.