



MONTGOMERY  
COUNTY<sup>NY</sup>  
Made of Something Stronger

CHARTER  
OF THE  
COUNTY OF  
MONTGOMERY



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## **Article I. MONTGOMERY COUNTY AND ITS GOVERNMENT**

### *Section 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 “Charter of the County of Montgomery.”

### *Section 1.02 Purpose.*

Among other purposes, this Charter seeks to secure self-government for the people of the County of Montgomery to the greatest extent possible through the exercise of home rule powers granted under the Constitution and under the laws of the State of New York, separate County legislative and executive functions, and to establish County government founded on adaptability, efficiency, and accountability.

### *Section 1.03 County 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.

### *Section 1.04 Effect of Charter on State Laws.*

Any state law that is inconsistent with this Charter shall be superseded by the provisions hereof to the extent of its inconsistency except where supersession is restricted by law.

### *Section 1.05 Effect of Charter on Local Laws and Resolutions.*

All existing local laws, resolutions, rules, and regulations heretofore adopted shall continue in force and effect except where inconsistent with the provisions of this Charter.

### *Section 1.06 Definitions.*

Whenever used in this Charter, the Administrative Code, or any other legislative act, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

- a) “Administrative Code” shall mean the administrative code adopted by and for the County of Montgomery and all amendments thereto;
- b) “Administrative Head” shall mean the head of any administrative unit;
- c) “Administrative Unit” shall mean any department, division, bureau, office, board, commission, or other agency of County government, or any subordinate part of the foregoing;
- d) “Charter” shall mean the Charter of the County of Montgomery and all amendments thereto;
- e) “County” shall mean the County of Montgomery;

- f) "County Executive" shall mean the elective chief executive officer of the County who shall govern according to those powers provided in this Charter or under any other provision or applicable law;
- g) "County Legislature" shall mean the elective legislative, appropriating, and policy-determining body of the County. Whenever the term "county board," "board of supervisors," "county governing board," or "elective governing body of the County" is referred to in any law, it shall be deemed to mean and refer to the County Legislature;
- h) "Department" shall mean any administrative unit which is the primary level of County government;
- i) "Department Head" shall mean the administrative head of any department, and may also be referred to herein as a "commissioner," "director," or by another name;
- j) "Executive Branch" shall mean the County Executive and all units of government within their jurisdiction;
- k) "Legislative Branch" shall mean the County Legislature and all units of government within its jurisdiction;
- l) "Local Law" shall mean a law adopted pursuant to this Charter within the powers 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 mean or include a resolution, ordinance, or similar act of the County Legislature;
- m) "Officer" shall mean any person in the County government who has authority to exercise some portion of the sovereign power, either in making, executing, or administering the laws;
- n) "Ordinance" shall mean a legislative act, not subject to referendum, adopted pursuant to this Charter and relating to property or any other subject or County concern not require to be enacted by local law or resolution;
- o) "Qualified Elector" shall mean a person qualified to cast a ballot in a County election;
- p) "Resolution" shall mean a legislative act, not subject to referendum, adopted pursuant to this Charter.

**Article II.           LEGISLATIVE BRANCH**

*Section 2.01           County Legislature.*

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

*Section 2.02           Term and Election.*

County Legislators shall be elected for terms of three years at the general election beginning in 2013, and every three years thereafter. A County Legislator may be elected after serving four consecutive terms only if their office is vacated for one term. 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 one and one-half 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.

*Section 2.03            Qualifications.*

At the time of their nomination and election, and throughout their term of office, each County Legislator shall be and shall remain a qualified elector of the district from which they are elected. No County Legislator shall hold any other elected public office during the term for which they are elected to the County Legislature. The compensation of each County Legislator shall not be decreased during their term of office.

*Section 2.04            Powers and Duties.*

The County Legislature 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 make appropriations, levy taxes, incur indebtedness, and adopt the County budget;
- b) To exercise all powers of local legislation in relation to enacting, amending, or rescinding local laws, Charter laws, legalizing acts, or resolutions;
- c) 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;
- d) To create, alter, combine, or abolish by local law County administrative units not headed by elective officers;
- e) To establish or abolish positions of employment and titles thereof;
- f) To adopt by resolution all necessary rules and regulations for its conduct and procedure;
- g) To fix the amount of the annual salary of its members by resolution;
- h) To confirm, when required, the appointments made by the County Executive according to the procedure cited in this Charter;
- i) 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 their term;
- j) 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;
- k) To fix the amount of bonds of officers and employees paid from County funds;
- l) 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;
- m) To designate annually by resolution between one and three newspapers published within the County for the publishing of all enactments, notices, and other matters required by law;
  - n) To designate two or more depositories for the deposit of all monies received by the County Treasurer;
  - o) To fill vacancies in any elective county offices except the judiciary in accordance with this Charter and other applicable laws;
  - 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.

*Section 2.05 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. If the County Legislature fails to fill a vacancy within sixty days after the vacancy occurred, a special election shall be conducted to fill the vacancy within ninety days after the vacancy occurred; provided, however, that if there is a scheduled general election within one hundred and twenty days after said vacancy occurs, the vacancy shall be filled at that general election.

*Section 2.06 Confirmation of Appointments.*

Confirmation of appointments, except as otherwise provided by this Charter, shall require 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 days after such appointment has been filed with the Clerk of the Legislature and the committee review process, as further defined by the rules of the Legislature, is conducted. If the County Legislature shall fail to approve or disapprove any appointment on or before the sixtieth day, such appointment shall be deemed approved and take effect at that time.

*Section 2.07 Local Law Publication Requirements.*

Upon adoption of each local law of the County of Montgomery, the Clerk of the Legislature shall cause the publication in the official newspapers of the County a 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, which is hereby expressly superseded by this Charter.

*Section 2.08 Organizational Meeting.*



The County Legislature shall convene within the first seven days of January to hold an organizational meeting at a time and place designated in a written notice to be given to each Legislator by the Clerk of the Legislature no later than five days prior to such meeting. In the event of a vacancy in the office of the Clerk of the Legislature, or their inability or failure to act in accordance with the provisions of this section, the County Clerk shall give notice. The Clerk of the Legislature, or County Clerk in their absence, shall call this organizational meeting to order and shall preside over the meeting until such time that the Legislature shall elect from among its members a Chair. The failure to elect a Chair shall not prevent the Legislature from transacting its organizational business. Following the selection of the Chair, a Deputy Chair and such other legislative officials, as it deems appropriate, shall be elected. The Chair shall appoint members of the County Legislature to serve on such legislative committees as are provided for by the rules of the County Legislature. In the event of vacancy in the office of Chair, the Legislature shall fill that office in the manner provided by its rules. Following the selection of legislative officials, the County Legislature shall appoint a Clerk as provided for in this Article, adopt all necessary rules and regulations for its conduct and procedure, and designate the official depositories and newspapers of the County. No other business shall be conducted at the organizational meeting.

*Section 2.09 Clerk of the County Legislature.*

The County Legislature shall, at its first organizational meeting, and every three years thereafter, appoint a Clerk. Except as otherwise provided in this Charter, the Clerk of the Legislature shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and required by the County Legislature. 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.

*Section 2.10 Regular and Special Meetings.*

The County Legislature shall fix by rule the time and place of its regular meetings, which shall be conducted at least once each calendar month. No prior notice of such meetings shall be required. Special meetings may be conducted at such times and places and upon such conditions and notice to all members of the County Legislature as provide by rule.

*Section 2.11 Annual Audit.*

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 days after receipt by the Clerk of the Legislature.

*Section 2.12                      Continuous Audit*

For the purpose of maintaining proper control and supervision over all fiscal affairs, the County Legislature shall appoint a County audit committee consisting of the Chair of the County Legislature, the chair of the legislative committee dealing with the finances of the County, if one should exist, 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. In the event that the County Legislature shall appoint a County Auditor as provided for in this Article, the duties of the County audit committee shall assumed by the said Auditor.

*Section 2.13                      County Auditor.*

The County Legislature may appoint a County Auditor who shall serve until their successor is appointed. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Legislature. The duties of the County Auditor 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) conducting such special audits, in addition to those stated in this Article, as are deemed necessary, at the request of the Legislature.

*Section 2.14                      Commission on Reapportionment.*

Within thirty days after the publication of the results of the 2020 Federal Census, and within thirty 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.

- a) The Commission shall consist of nine members, with no more than one member a resident of each then-existing 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.
- b) 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 the appointments of these six selections, each appointing authority shall appoint one additional member, in the same order.
- c) The Commission shall convene for its organizational meeting at the call of the County Executive, and shall at that meeting elect a chair 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, school district, election district boundaries, and the then-existing Legislative Districts, as well as geographic features. The Commission shall give no consideration, however, to political party registration or affiliation.

- d) 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 ninety days of its first meeting, the Commission shall present a draft map and draft local law to the County Legislature. Within sixty days thereafter, the County Legislature may vote to make changes to the local law, provided that any changes must be approved by a two-thirds vote of the Legislature. Should the sixty-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 III. EXECUTIVE BRANCH**

#### *Section 3.01 County Executive.*

There shall be an elected chief executive officer of the County of Montgomery, who shall be known as the County Executive.

#### *Section 3.02 Term and Election.*

The County Executive shall be elected from the County-at-large at the general election beginning in 2013, and every four years thereafter, for a term of four years commencing on the first day of January immediately following their election. They shall serve a maximum of three consecutive full terms.

#### *Section 3.03 Qualifications.*

At the time of their nomination and election, and throughout their term of office, the County Executive shall be and shall remain a qualified elector of Montgomery County. They shall hold no other elected public or elected political office during their term and shall devote their full working time to the duties of the office. The compensation of the County Executive shall not be increased nor decreased during their term of office.

#### *Section 3.04 Powers and Duties.*

The County Executive shall be responsible for the proper administration of all County affairs placed in their charge. Except as otherwise provided in this Charter, the County Executive shall have and exercise all the powers and duties now or hereafter conferred or imposed upon them by this Charter, the Administrative Code, or by applicable law, together with all the powers and duties necessarily implied or incidental thereto. The County Executive shall have, but not by limitation, the following powers and duties:

- a) Execute and enforce all laws and resolutions of the County Legislature;
- b) Exercise supervision and control over all administrative units, departments, offices, and agencies of the County government and prescribe the internal organization of such units, departments, offices, and agencies;
- c) Appoint without confirmation by the Legislature, to serve at their pleasure, such assistants and employees of this office as may be authorized by the County Legislature;
- d) Appoint, supervise, and terminate, except as otherwise provided herein, all executive committees, commissions, and boards to assist them in exercising their executive functions in the planning, formulation, and administration of executive programs;
- e) 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 appropriation made by the County Legislature;
- f) 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;
- g) Make such recommendations to the County Legislature with respect to the affairs of the County and its government, as they may deem appropriate;
- h) Approve or disapprove in writing every proposed local law and resolution and the County budget by specified items, subject to provisions of this Article;
- i) Make, sign, and implement all contracts on behalf of the County within authorized appropriations;
- j) Approve or disapprove the sufficiency of sureties on official bonds and undertakings;
- k) 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;
- l) 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 their jurisdiction and in furtherance of their executive functions.
- m) 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;
- n) 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 them;

*Section 3.05                      Acting County Executive.*

The County Executive shall designate in writing within thirty days of assuming office an appointed head of a department or division to perform the duties of the County Executive during their absence from the County or their 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 they are 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.

*Section 3.06            Vacancy.*

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.

*Section 3.07            Appointments by County Executive.*

The County Executive shall appoint all the heads of all County administrative units and departments 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 days after such appointment is made, or in the case of an incumbent appointee within ten days of the County Executive's new term. Appointees requiring confirmation shall not take office until such confirmation is voted upon or the time limit for rejection has passed, as provided in this Charter. Unless removed, an appointee shall continue to serve until their successor is appointed and has qualified, or until an interim appointment is made.

*Section 3.08            Executive Action on Local Laws.*

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

- a) Approval. In the event of the approval by the County Executive, they shall endorse the original document and return it to the Clerk of the County Legislature within twenty-five days.
- b) Veto. If vetoed by the County Executive, they shall so indicate in writing, setting forth their objections to the legislation, and within twenty-five days after receipt thereof return the original document to the Clerk of the County Legislature with their veto message attached.
- 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 their 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 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 of the whole of its number on a roll-call vote. Only one such reconsideration vote shall be taken on any single vetoed enactment.

*Section 3.09 Executive Action on Resolutions.*

Unless otherwise specified 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 their action within five days after passage. Within ten days after receipt of the original enactment as passed by the County Legislature, they shall take action approving or vetoing the same.

- a) Approval. In the event of the approval by the County Executive, they shall endorse the original document and return it to the Clerk of the County Legislature within ten days.
- b) Veto. If vetoed by the County Executive, they shall so indicate in writing, setting forth their objections to the legislation, and within ten days after receipt thereof return the original document to the Clerk of the County Legislature with their 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 their 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 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 of the whole of its number on a roll-call vote. Only one such reconsideration cote shall be taken on any single vetoed enactment.

**Article IV. FINANCIAL CONTROL**

*Section 4.01 Legislative Control.*

The financial affairs of the County government shall be controlled by 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. All contracts entered into by the County shall be executed in the manner provided in this Charter or as directed by the County Legislature.

*Section 4.02 Fiscal Year.*

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

Section 4.03            *Annual Operating Budget.*

- a) Preparation of Tentative Budget.
  - i) On or before the fifteenth 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.
  - ii) The County Executive shall notify the head of each administrative unit and authorized agency receiving County funds during the fiscal year in writing and not less than thirty days prior to the date fixed for the submission of requests of:
    - 1) The date fixed to receive estimates of revenues and expenditures for the ensuing fiscal year;
    - 2) The forms and information to be contained in such estimate and request;
    - 3) Such policy and guidelines as may be provided by the County Legislature for determining expenditures, limits, and priorities.
  - iii) On or before the fifteenth day of July in each year, or such earlier date as the County Executive may prescribe, the head of each administrative unit and authorized agency receiving County funds during the fiscal year shall furnish to the County Treasurer an estimate of revenues and expenditures of their respective unit or authorized agency for the ensuing fiscal year, exclusive of capital projects. The estimates of each unit or authorized agency shall show the sources of revenues and the character and objects of expenditures, which may be sub-classified by functions and activities. Further, the estimate shall be subdivided according to the internal organization of such unit or authorized agency. 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 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.
  - iv) The County Treasurer, upon receipt of the estimates and requests for appropriations, shall proceed to make such review and investigation thereon, as they may deem necessary. They 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 County Legislature, the Clerk of the Legislature, and the County Auditor shall be entitled to attend and participate in all such meetings and hearings.
- b) Tentative County Budget.
  - i) 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.

- ii) The tentative budget shall be filed with the Clerk of the Legislature on or before the fifth day of September. The tentative budget shall include such information and detail as may be requested by the Legislature.
  - iii) 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 day of August.
  - iv) 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:
    - 1) A statement of all revenues estimated to be received by the County during the ensuing fiscal year, excepting taxes to be levied;
    - 2) 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;
    - 3) An estimate of anticipated receipts from delinquent taxes, which shall not exceed the amount received in the previous fiscal year.
  - v) 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.
  - vi) The tentative County budget shall be accompanied by the budget message from the County Executive. The budget message shall include an outline of the 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.
- c) Adoption of Annual Operating Budget.
- i) The Clerk of the Legislature, upon receipt of the tentative County budget from the County Executive, shall transmit a copy of said tentative County budget to each County Legislator and cause such copies to be printed and made available to the public.
  - ii) The County Executive and County Treasurer shall meet with the County Legislature or a legislative committee designated by it within five days after the transmittal of the tentative County budget to review the document.
  - iii) The Legislature or designated legislative committee shall conduct a public hearing on the tentative County budget as submitted by the County Executive. The Clerk of the Legislature shall cause to be posted on the County website, published in the official newspaper of the County, and such other newspapers as may be designated by the Legislature notices of the location and time at which this hearing shall be held no later than five days before said hearing. The County Executive and County Treasurer shall be present to answer questions about the budget. The Legislature or designated legislative



committee shall then review the tentative County budget submitted by the County Executive and shall file a report with the Clerk of the County Legislature on or before the twenty-fifth day of September. The report shall include any recommendations made by the Legislature or designated legislative committee. Copies of the report shall be made available to the public.

- iv) The County Legislature shall conduct a public hearing on the tentative County budget as submitted by the County Executive and the report of the Legislature or designated legislative committee on or before the fifth day of October. The Clerk of the Legislature shall cause to be posted on the County website, published in the official newspaper of the County, and such other newspapers as may be designated by the Legislature notices of the location and time at which this hearing shall be held no later than five days before said hearing.
- v) Following completion of the public hearing and prior to the tenth 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 operating 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 by resolution. 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 County budget.
- vi) If the County Legislature shall fail to adopt a budget as herein provided on or before the fifteenth day of October, the tentative County budget as submitted by the County Executive shall be the budget for the ensuing fiscal year.
- vii) Within three business days following the adoption of said annual operating budget by the County Legislature, the Clerk of the Legislature shall forward to the County Executive the changes made by the County Legislature in the tentative County 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 day of October together with a message containing justification of each line item veto. If the County Executive takes no action on or before the twenty-third day of October they shall be deemed to have approved the amendments.
- viii) Upon receipt of the veto message from the County Executive, the Chair of the Legislature shall convene the County Legislature on or before the thirty-first day of October for the purpose of reconsidering each vetoed item. Following such final action of the Legislature, the tentative County budget, as amended by the County Legislature 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 of the whole number of its numbers, shall become the final annual operating budget for the ensuing fiscal year.

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

*Section 4.04 Capital Program and Capital Budget.*

- a) Definitions.
  - i) “Capital Project” as used herein shall mean any physical betterment or improvement, including furnishings, machinery, apparatus, or equipment for such physical betterment or improvement; any preliminary study and/or surveys relating to any physical betterment or improvement; any acquisitions of land or rights in the land; or any combination of the above.
  - ii) “Capital Program” as used herein shall mean the program that consists of capital projects for the ensuing six 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 Capital Budget.
  - i) On or before the fifteenth 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 years. The head of each administrative unit of County government or authorized agency shall, on or before the fifteenth day of April, file their capital requests, including accompanying documentation with the County Executive.
  - ii) Upon the receipt of the proposed capital project requests from the County Executive, the Department of Economic Development and Planning shall review the information provided therein. On or before the fifteenth day of June, the Department of Economic Development and Planning 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.
  - iii) There shall be a Capital Projects Committee consisting of the County Executive as Chair, the County Treasurer as Deputy Chair, the Chair of the County Legislature, a designee of the legislative committee dealing with the finances of the County, if one should exist, one other member of the County Legislature, the Director of Economic Development and Planning, and the Commissioner of Public Works to review the capital project requests in consideration of the capital program and the capital budget.
    - 1. The Capital Projects Committee shall meet each year during the period between the fifteenth day of June through the first day of August, as directed by the Chair 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 years, for both existing and newly proposed capital projects.

2. The report shall also indicate the order of priority of each proposed capital project and shall provide a description of the project and estimated total cost thereof; 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; and an estimate of the financial impact, if any, upon the operating budget of the County for each of the next six fiscal years.
  3. On or before the first 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. The Chair of the Capital Projects Committee, or their designee, shall report on a monthly basis to the County Legislature and provide a detailed status report on all capital projects.
- iv) 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 first day of September in accordance with this Charter.

*Section 4.05 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. 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.

*Section 4.06 Modifications of Appropriations.*

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:

- a) Revenues received from sources not anticipated in the budget for that year;

- b) Revenues received from anticipated sources in excess of the budget estimates therefore;
- c) Unappropriated cash surplus.

Additionally, 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 their recommendations for further action. The Legislature shall take such action, as it deems necessary, to prevent or minimize the deficit. Alternatively, 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 their recommendations for further action. The Legislature shall take such action, as it deems necessary, to prevent or minimize the deficit. In the event the County Executive fails to report to the Legislature within thirty 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.

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 Legislature on a monthly basis.

*Section 4.07            Budget Controls.*

No County officer, employees, 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 appropriated and available in the annual 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.

*Section 4.08            Financial Reporting.*

On or before the fifteenth 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 and by the County Executive. 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 County Executive. 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 their 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 V. COUNTY TREASURER**

### *Section 5.01 County Treasurer.*

There shall be a County Treasurer elected from the County-at-large at the general election beginning in 2015, and every four years thereafter, for a term of four years commencing on the first day of January immediately following their election. At the time of their nomination and election, and throughout their term of office, the County Treasurer shall be and shall remain a qualified elector of Montgomery County. They shall hold no other elected public or elected political office during their term and shall devote their full working time to the duties of the office.

### *Section 5.02 Powers and Duties.*

Except as otherwise provided in this Charter, the County Treasurer shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law.

## **Article VI. OTHER ELECTED OFFICIALS**

### *Section 6.01 County Clerk.*

There shall be a County Clerk elected from the County-at-large at the general election beginning in 2014, and every four years thereafter, for a term of four years commencing on the first day of January immediately following their election. At the time of their nomination and election, and throughout their term of office, the County Clerk shall be and shall remain a qualified elector of Montgomery County. They shall hold no other elected public or elected political office during their term and shall devote their full working time to the duties of the office. The County Clerk shall be the official registrar of the County of Montgomery. Except as otherwise provided in this Charter, the County Clerk shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law.

*Section 6.02 County Coroners.*

There shall be two County Coroners elected from single-member districts at the general election beginning in 2013, and every four years thereafter, for a term of four years commencing on the first day of January immediately following their election. One district shall consist of the City of Amsterdam together with the Towns of Amsterdam and Florida. The remaining area of the County shall constitute the other district. At the time of their nomination and election, and throughout their term of office, each County Coroner shall be and shall remain a qualified elector of the district from which they are elected. Except as otherwise provided in this Charter, the County Coroners shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law. The County Executive shall appoint a Head Coroner, subject to confirmation by the County Legislature. The Head Coroner shall:

- a) coordinate the schedules of the County Coroners to insure that there is twenty-four hour coverage, seven days a week;
- b) prepare and submit on behalf of the County Coroners the estimates of revenues and appropriations for the ensuing fiscal year as prescribed in this Charter;
- c) recommend standardized forms to the County Executive for use by all County Coroners;
- d) insure that the County Coroners are complying with all statutes, laws, rules, and regulations of both the state and the County.

*Section 6.03 County Sheriff.*

There shall be a County Sheriff elected from the County-at-large at the general election beginning in 2014, and every four years thereafter, for a term of four years commencing on the first day of January immediately following their election. At the time of their nomination and election, and throughout their term of office, the County Sheriff shall be and shall remain a qualified elector of Montgomery County. They shall hold no other elected public or elected political office during their term and shall devote their full working time to the duties of the office. Except as otherwise provided in this Charter, the County Sheriff shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law as an officer of the court and conservator of the peace within the County.

*Section 6.04 District Attorney.*

There shall be a District Attorney elected from the County-at-large for a term of office as prescribed by law. At the time of their nomination and election, and throughout their term of office, the District Attorney shall be and shall remain a qualified elector of Montgomery County and duly licensed and entitled to practice law in the State of New York. The District Attorney shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law.

**Article VII. BOARD OF ELECTIONS**

Section 7.01 *Commissioners of Elections.*

There shall be a Board of Elections constituted according to state law under the direction of Commissioners of Elections who shall be appointed by the County Legislature in accordance with Election Law. The certificate of party recommendation required by Election Law shall be filed with the Clerk of the Legislature at least thirty days, but no more than sixty days before the first of January in any year in which a Commissioner of Elections must be appointed.

Section 7.02 *Powers and Duties.*

Except as otherwise provided in this Charter, the Commissioners of Elections shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article VIII. DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING**

Section 8.01 *Director of Economic Development and Planning.*

There shall be a Department of Economic Development and Planning under the direction of a Director of Economic Development and Planning who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

Section 8.02 *Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Economic Development and Planning shall:

- a) appoint such staff of the Department of Economic Development and Planning, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) administer the development, promotion, and implementation of the County economic development program including but not limited to the Montgomery County Industrial Development Agency, Montgomery County Business Development Center, business park development, and business recruitment, retention, and expansion programs;
- c) conduct technical evaluations, prepare proposals, position papers, plans, letters, memorandum, and/or reports on County issues, programs, and projects as required by the County Executive;
- d) administer 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 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;
- f) represent 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;
- g) 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;
- h) exercise all the powers and duties prescribed by law for a county or regional planning board;
- i) assist the County Executive in executive planning including the preparation and planning of the capital budget and capital programs;
- j) provide education and training programs to local municipalities in relation to transportation, planning, development, and the environment;
- k) perform analyses of the United States federal decennial census as a 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 the County;
- l) review and prepare recommendations and comments on all municipally referred projects involving the State Environmental Quality Review Act as well as prepare all forms associated therewith on behalf of the County when necessary;
- m) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article IX. DEPARTMENT OF EMERGENCY MANAGEMENT**

*Section 9.01 Director of Emergency Management.*

There shall be a Department of Emergency Management under the direction of a Director of Emergency Management who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 9.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Emergency Management shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive. 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 Emergency Management.



**Article X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Section 10.01 Commissioner of Health and Human Services.*

There shall be a Department of Health and Human Services under the direction of a Commissioner of Health and Human Services who shall be appointed by the County Executive subject to confirmation by the County Legislature. The Commissioner of Health and Human Services shall meet the qualifications required by Mental Hygiene Law, Public Health Law, Sanitary Code, Social Services Law, and shall require the approval of the State Commissioners of Mental Hygiene, Health, and Social Services if provided for by law. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive, except that if the Commissioner of Health and Human Services is appointed for a fixed term of years pursuant to a provision of state law, they may only be removed for cause, after written notice of charges and an opportunity to be heard.

*Section 10.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Commissioner of Health and Human Services shall:

- a) appoint such staff of the Department of Health and Human Services, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) perform all the duties prescribed by law in the administration of welfare assistance;
- c) recommend policies that promote youth development and prevent delinquency, plan and coordinate activities devoted to the well-being and protection of all youth in Montgomery County, and expand public awareness of youth issues;
- d) have all the powers and perform all the duties now or hereafter conferred or imposed upon a director of community services or community services board by Mental Hygiene Law or any other law;
- e) have all the powers and perform all the duties now or hereafter conferred or imposed upon a county health commissioner and upon a local board of health by Public Health Law or any other law;
- f) have all the powers and perform all the duties now or hereafter conferred or imposed upon a county commissioner of public welfare by Social Services Law or any other law;
- g) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

*Section 10.03 Board of Health.*

There shall be a Board of Health within the Department of Health and Human Services consisting of seven members who shall be appointed by the County Legislature in the manner and for the term provided in Public Health Law. The County Executive, or their designee, shall be one of the

members. The Board of Health shall have all the powers and perform all the duties now or hereafter conferred or imposed upon a local board of health by Public Health Law. Members of the Board of Health shall receive no compensation for services rendered but shall be entitled to their reasonable and necessary expenses incurred in the performance of their duties, within appropriations made for such purposes.

*Section 10.04*            *Community Services Board.*

There shall be a Community Services Board within the Department of Health and Human Services consisting of nine members who shall be appointed by the County Legislature in the manner and for the term provided in Mental Hygiene Law. The County Executive, or their designee, shall be one of the members. The Community Services Board shall have all the powers and perform all the duties now or hereafter conferred or imposed upon a community services board by Mental Hygiene Law except that it shall not have the power to appoint or remove the Commissioner of Health and Human Services, to fix their compensation and expenses, to exercise supervisory authority over the Commissioner of Health and Human Services, and to audit and approve claims of the Commissioner of Health and Human Services or of the Department of Health and Human Services. Members of the Community Services Board shall receive no compensation for services rendered but shall be entitled to their reasonable and necessary expenses incurred in the performance of their duties, within appropriations made for such purposes.

**Article XI.            DEPARTMENT OF HISTORY AND ARCHIVES**

*Section 11.01*            *County Historian.*

There shall be a Department of History and Archives under the direction of a County Historian who shall be appointed by the County Executive subject to confirmation by the County Legislature. The County Historian shall serve as the County Records Management Officer. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 11.02*            *Powers and Duties.*

Except as otherwise provided in this Charter, the County Historian shall preserve, interpret, and promote the history of the County of Montgomery and have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XII.            DEPARTMENT OF HUMAN RESOURCES**

*Section 12.01*            *Commissioner of Human Resources.*

There shall be a Department of Human Resources under the direction of a Commissioner of Human Resources who shall be appointed by the County Executive subject to confirmation by the County Legislature. The Commissioner of Human Resources shall be the County personnel

officer. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive, except that if the Commissioner of Human Resources is appointed for a fixed term of years pursuant to a provision of state law, they may only be removed for cause, after written notice of charges and an opportunity to be heard.

*Section 12.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Commissioner of Human Resources shall:

- a) appoint such staff of the Department of Human Resources, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) have all the powers and perform all the duties now or hereafter conferred or imposed upon a personnel officer or municipal civil service commission by Civil Service Law or any other law;
- c) prepare and administer personnel rules for County officers and employees subject to approval by the County Executive and as otherwise provided by law;
- d) assist the County Executive in negotiations and administration on behalf of the County for personnel contract agreements with recognized employee representatives;
- e) be responsible for a comprehensive salary plan for the County, workman's compensation, and job training and development for employees and labor relations with County employees through the bargaining units in the County;
- f) be responsible for administration and coordination of all benefit programs and plans for all current County employees and eligible retired employees, as appropriate;
- g) administer civil service laws, rules, and regulations for all Montgomery County departments towns, villages, school districts, public libraries, and special districts;
- h) 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;
- i) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XIII. DEPARTMENT OF INFORMATION SERVICES**

*Section 13.01 Director of Information Services.*

There shall be a Department of Information Services under the direction of a Director of Information Services who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 13.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Information Services shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

#### **Article XIV. DEPARTMENT OF LAW**

##### *Section 14.01 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 and serve conterminously with the County Executive. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. At the time of their appointment, and throughout their term of office, the County Attorney shall be and remain duly licensed and entitled to practice law in the State of New York. They shall be directly responsible to and serve at the pleasure of the County Executive.

##### *Section 14.02 Powers and Duties.*

Except as otherwise 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 including 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;
- c) prosecute or defend all civil matters or proceedings involving the County and its units, including its officers;
- d) execute all tax foreclosure proceedings required in the name of the County;
- e) have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law;
- f) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

##### *Section 14.03 Assistant County Attorney and Staff.*

The County Attorney may appoint such Assistant County Attorneys-and employees of their department within appropriations made therefor. At the time of their appointment, and throughout their term of office, each Assistant County Attorney shall be and remain duly licensed to practice law in the State of New York.

##### *Section 14.04 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 their absence from the County or inability to perform and exercise the powers and duties

of their office. Such designation shall be filed with the County Executive and the Clerk of the 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.

*Section 14.05 Conflicts.*

Whenever the interests of the County Executive and the Legislature are inconsistent, the County Attorney shall represent the interests of the County Executive. In such event, nothing herein shall be construed to deny the County Legislature access to obtaining legal counsel at County expense.

*Section 14.06 Special Counsel.*

The County Attorney shall have the power to retain special counsel within appropriations made therefor.

**Article XV. DEPARTMENT OF PROBATION**

*Section 15.01 Director of Probation.*

There shall be a Department of Probation under the direction of a Director of Probation who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive, except that if the Director of Probation is appointed for a fixed term of years pursuant to a provision of state law, they may only be removed for cause, after written notice of charges and an opportunity to be heard.

*Section 15.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Probation shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XVI. DEPARTMENT OF THE PUBLIC DEFENDER**

*Section 16.01 Public Defender.*

There shall be a Department of the Public Defender under the direction of a Public Defender who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. At the time of their appointment, and throughout their term of office, the County Attorney shall be and remain duly licensed and entitled to practice law in the State of New York. They shall be directly responsible to and serve at the pleasure of the County Executive. The Public Defender shall fulfill the County's obligation to provide legal counsel to

indigent defendants in criminal matters and family court matter as required by law and as the County Legislature may approve.

*Section 16.02 Powers and Duties.*

Except as otherwise provided in this Charter the Public Defender shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XVII. DEPARTMENT OF PUBLIC WORKS**

*Section 17.01 Commissioner of Public Works.*

There shall be a Department of Public Works under the direction of a Commissioner of Public Works who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 17.02 Powers and Duties.*

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

- a) appoint such staff of the Department of Public Works, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) have all the powers and perform all the duties now or hereafter conferred or imposed upon a county engineer or county superintendent of highways by Highway Law or any other law;
- c) have charge and supervision of the design, construction, improvement, and maintenance of highways and bridges of the County within appropriations;
- d) have charge and supervision of the design, construction, improvement, and maintenance of buildings owned or leased by the County, parking areas, drives, walks, docks, marinas, parks, recreational facilities, trails, preserves, and other lands, structures, and facilities in the nature of public works under the jurisdiction of the County, including custodial care within appropriations;
- e) furnish engineering and other services to the County Executive, County Legislature, Department of Economic Development and Planning, and any other County department when directed by the County Executive;
- f) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XVIII. DEPARTMENT OF PURCHASING**

*Section 18.01 Purchasing Agent.*

There shall be a Department of Purchasing under the direction of a Purchasing Agent who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 18.02 Powers and Duties.*

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

- a) appoint such staff of the Department of Purchasing, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) 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;
- c) assure suitable specifications or standards for all materials, supplies, and equipment to be purchased and assure inspection of the same;
- d) make purchases for municipalities or other civil divisions of the County upon the written request of the governing body thereof within appropriations;
- e) 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 all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XIX. DEPARTMENT OF REAL PROPERTY TAX SERVICES**

*Section 19.01 Director of Real Property Tax Services.*

There shall be a Department of Real Property Tax Services under the direction of a Director of Real Property Tax Services who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications required by Real Property Tax Law and the Commissioner of State Tax & Finance. They shall be directly responsible to and serve at the pleasure of the County Executive, except that if the Director of Real Property Tax Services is appointed for a fixed term of years pursuant to a provision of state law, they may only be removed for cause, after written notice of charges and an opportunity to be heard.

*Section 19.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Real Property Tax Services shall:

- a) appoint such staff of the Department of Real Property Tax Services, within budgetary appropriations, as may be necessary to implement the duties of the Department as set forth herein;
- b) have all the powers and perform all the duties now or hereafter conferred or imposed upon a county real property tax services director by state law or any other law;
- c) be responsible for ascertaining, spreading, entering, and extending taxes levied by the County Legislature for all state, County, town, and special districts' purposes;
- d) prepare tax rolls and issue tax bills for those taxes;
- e) perform all other duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XX. DEPARTMENT OF VETERAN SERVICES**

*Section 20.01 Director of Veteran Services.*

There shall be a Department of Veteran Services under the direction of a Director of Veteran Services who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications required by Executive Law. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 20.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Director of Veteran Services shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XXI. DEPARTMENT OF WEIGHTS AND MEASURES**

*Section 21.01 Sealer of Weights and Measures.*

There shall be a Department of Weights and Measures under the direction of a Sealer of Weights and Measures who shall be appointed by the County Executive subject to confirmation by the County Legislature. They shall be appointed on the basis of their professional experience and other qualifications for the responsibilities of their office. They shall be directly responsible to and serve at the pleasure of the County Executive.

*Section 21.02 Powers and Duties.*

Except as otherwise provided in this Charter, the Sealer of Weights and Measures shall have all the powers and perform all the duties now or hereafter conferred or imposed upon them by law and the County Executive.

**Article XXII. INTERMUNICIPAL RELATIONS**



*Section 22.01*            *Local Government Functions.*

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

*Section 22.02*            *Intermunicipal Contracts.*

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. The provisions of this article shall be implemented pursuant to General Municipal Law unless otherwise provided for by law.

**Article XXIII.    GENERAL AND TRANSITIONAL PROVISIONS**

*Section 23.01*            *Other County Offices and Boards.*

All other County offices, boards, agencies, and functions shall continue as provided by law. The County Executive may assign administrative units and functions not otherwise assigned by this Charter, the Administrative Code, or other legislation of the County Legislature to units within the County government.

*Section 23.02*            *County Officers*

The provisions of any rule or regulation which requires that a public officer be a resident of the political subdivision or municipal corporation of the state for which they shall be chosen or within which their official functions are required to be exercised, shall be suspended by the appointing authority when there is difficulty in recruiting competent employees and such residence requirements would prove disadvantageous to the public interest. This provision shall not apply to any elected offices.

*Section 23.03*            *Clarification.*

If any provision of this Charter is not clear or shall require 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.

*Section 23.04*            *Amendment and Revision.*

This Charter may be amended by local law subject to referendum when so provided by the Municipal Home Rule Law. A Charter amendment may be proposed at any time by a member of the County Legislature, the County Executive, or the governing bodies of any of the towns, city, or villages of the County. Any proposed amendment that would have the effect of transferring a function or duty of the County, or of a town, city, village, school district, or any other unit of local

government wholly contained within the County shall not become operative until it is approved by a mandatory referendum required by the Municipal Home Rule Law. Any proposed amendment that would create or abolish an elected office; change the power of an elected County officer during their 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 referendum on petition.

*Section 23.05 Adoption of Administrative Code.*

The Administrative Code of the County of Montgomery shall be adopted by local law.

*Section 23.06 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.

*Section 23.07 Severability.*

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 effect to the particular provision directly involved in the controversy.

*Section 23.08 Construction.*

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

*Section 23.09 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.