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COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

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FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

December 7, 2015

Hon. Karen McCarthy
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York, 14202

Re: Local Law No. 4-2015 (A Local Law Amending the Erie County Code of Ethics)
Our File No.: 22-20150018

Dear Hon. McCarthy:

Enclosed please find an original of the above-referenced Local Law for filing in your office.

Thank you.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: s/Gregory P. Kammer NCK
Gregory P. Kammer
Assistant County Attorney

GPK/nck
Enclosure

95 FRANKLIN STREET – ROOM 1634, BUFFALO, NEW YORK 14202– PHONE (716) 858-2200 – FAX (716)858-2281 (NOT FOR SERVICE)
WWW.ERIE.GOV

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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

☒ County ☐ City ☐ Town ☐ Village
(Select one)

of Erie

Local Law No. 4 of the year 20 15

A local law
(Insert Title)
Amending the Erie County Code of Ethics

Be it enacted by the Erie County Legislature of the
(Name of Legislative Body)

☒ County ☐ City ☐ Town ☐ Village
(Select one)

of Erie as follows:

Section 1: Intent

It is stated intent of this body to amend the Erie County Code of Ethics to reflect the highest standards of integrity and morality displayed by elected officials within the County of Erie.

To that end, several sections of the Code of Ethics are amended to ensure that all financial documents are submitted by every elected official who served in a given year, regardless of whether they are still serving on the date the documents are due.

These changes will ensure that during the transitions of government officials the process remains transparent and taxpayers are assured that they are fairly represented by elected officials.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

DOS-0239-f-l (Rev. 04/14)

Section 2: Erie County Local Law number ten of nineteen hundred eighty-nine, as amended by Local Law number four of nineteen hundred ninety four, constituting the Erie County Code of Ethics, is hereby amended as follows:

Section *three-f* shall be amended to read as follows:

3(f). The term "officer or employee" shall mean the head or heads of any department, division, special district or other administrative unit of county government and their deputies and assistants; and such others who hold policy-making positions as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the Erie county board of ethics during the month of February. Said designation of those employees and officers as "policy making" may be challenged by the designated employees or officers upon filing a written petition in opposition to such designation within thirty days from the date of the filing of such designation with the Erie County Board of Ethics. The aforementioned Board of Ethics shall upon receipt of a petition in opposition promptly make a determination as to the petition's merits upon a majority vote of a quorum of the Board, and shall notify all interested parties within ten days of its decision. <u>The term "officer or employee" shall also mean those individuals defined herein who shall serve or have served at any time, regardless of duration, during the calendar year for which disclosure is sought regardless of whether they are affiliated with the County at the time the request for disclosure is made.</u>

[ ] *bracketed material is deleted; underlined material is be added*

Section *eight* shall be amended to read as follows:

Annual financial disclosure statement:

Commencing with the calendar year next succeeding the calendar year in which this local law is adopted, the following form of financial disclosure shall be annually filed by all persons required to file financial disclosure statement under this local law. <u>Such disclosure shall be filed regardless of whether such individual is employed, a member of a Board or Commission, or otherwise affiliated with the County at the time the request for disclosure is made. The form of the financial disclosure statement required under this local law of all current and former individuals required to file same shall be as determined annually by the Board of ethics which shall maintain the authority to modify same as may be deemed necessary.</u>

[ ] *bracketed material is deleted; underlined material is to be added*

Section *nine* shall be amended to read as follows:

Penalties:

A reporting individual, <u>as defined in sections three and four of this law,</u> who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows

or should have known to be false on such statement of financial disclosure filed pursu-ant to this section, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment for a civil penalty hereunder shall be made by the Erie county board of ethics. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the board of ethics may, in lieu of a civil penalty, refer d violation to the district attorney and upon such conviction, but only after such referral, such violation shall be punish-able as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is knowingly understated Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary action as other-wise provided by law. The Erie county board of ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Erie county board of ethics, pursuant to article seventy-eight of the civil practice law and rules.

[ ] bracketed material is deleted; underlined material is to be added

Section *then-h* shall be amended to read as follows:

10(h). [The County Executive and the County Legislature will make available any support staff necessary for the Board of Ethics to carry out its duties and functions.] <u>The County Executive shall, subject to section 19 of the Erie County Code, provide staff and supplies necessary for the ethics board to perform its stated objectives. The District Attorney shall be responsible for investigating any claims made by the board.</u>

[ ] bracketed material is deleted; underlined material is to be added

Section 3: Severability

If any clause, sentence, paragraph, section or article of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

Section 4: Effective Date

This law becomes effective upon its filing with the Secretary of State.

Sponsored By:
Legislator Kevin R. Hardwick

Co-Sponsored By:
Legislator John J. Mills
Legislator Lynne Dixon
Legislator Joseph C. Lorgio
Legislator Edward A. Rath III
Legislator Ted B. Morton

REFERENCE: LOCAL LAW INTRO. 4-2 (2015)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)
I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20 15 of the (County)[redacted] of Erie was duly passed by the Erie County Legislature on November 10 20 15, and was [redacted]
(Name of Legislative Body)
(repassed after disapproval) by the Erie County Executive and was deemed duly adopted
(Elective Chief Executive Officer)*
on December 3' 20 15, in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

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* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

DOS-0239-H (Rev. 04/14)

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No._____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No._____ of 20_____ of the County of _____State of New York, having been submitted to the electors at the General Election of November _____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

Karen M. McCarthy
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: December 4 2015

DOS-0239-f-l (Rev. 04/14)