

# Cortland County Code of Ethics

**Local Law 2 of 2008**

*A Local Law Adopting a County Code of Ethics  
and Requiring Financial Disclosure by Certain County  
Officials and Employees; and Rescinding Local Law No. 5 of 1984*

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Be it enacted by the Cortland County Legislature

**Article I. Purpose and Intent.**

Pursuant to the provisions of Article 18 of the General Municipal Law, the Cortland County Legislature recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. The proper administration of the government of Cortland County requires its officers and employees, whether elected or appointed, paid or unpaid, including members of administrative boards, commissions or other agencies, to be impartial and free from conflicts of interest in fulfilling their public responsibilities.

The purpose of this article is to state, for those officers, employees and appointees of Cortland County, and for the citizens of the county, standards of conduct necessary to assure these goals, in addition to, and in accordance with, the standards prescribed in Article 18 of the General Municipal Law. Further, it is the purpose of this article to promulgate the rules and serve as a guide of official and ethical conduct for officers, appointees and employees of Cortland County.

These rules of ethical conduct, as adopted, shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

**Article II. Definitions**

- (A) Child - any son, daughter, stepson or stepdaughter of a County officer, employee or elected official, if such child is under 18 (eighteen) or is a dependent of the officer, employee or appointed official, as defined in the Internal Revenue Code Section 152(a)(1) and (2) and any amendments thereto.
  
- (B) Interest - a direct or indirect pecuniary or material benefit accruing to a County officer, employee or appointed official, spouse or child, whether the result of a contract with the County or otherwise. For the purpose of this chapter, a County officer, employee or appointed official shall be deemed to have an interest in the contract if (i) a spouse and/or children, except a contract of employment with the County; (ii) a firm, partnership or association of which such officer, employee or appointed official or spouse or child is a member or employee; (iii) a corporation of which such officer, employee or appointed official, or child is an officer or director; and (iv) the outstanding capital stock of a corporation which is owned by, or controlled directly or indirectly by an officer, employee or appointed official, or his/her spouse or child.

- (C) Legislation - a matter which appears upon the calendar of the Cortland County Legislature, or upon a committee thereof, upon which any official action has been taken including adopted acts, local laws or resolutions.
- (D) Officer or employee - any officer or employee of Cortland County, whether paid or unpaid, including elected officials, appointed officials and heads of any agency, institution, department, district, office, branch, division, council, commission, board or bureau of the County.
- (E) County elected official - a member of the County's governing body, Coroner, County Clerk, County Treasurer, District Attorney, or Sheriff.
- (F) Appointed official - any individual appointed by the Chairman of the County's governing body, the County's governing body, or anyone having authority to appoint, derived from either of the foregoing, to any agency, institution, department, district, office, branch, division, council, commission, board or bureau, whether unpaid or paid.
- (G) Reporting officer, employee or appointed official - an officer, employee, appointed official or candidate for County elected office who is required to complete and file an annual statement of financial disclosure, pursuant to this Local Law.
- (H) Spouse - the husband or wife of an officer, employee or appointed official subject to the provisions of this Local Law, unless legally separated from such officer, employee or appointed official.
- (I) Jurisdiction - having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the County agency in which she/he is an officer, employee or appointed official.
- (J) Chief Elected Official - for the purposes of interpreting this local law only, the Chairperson of the County's governing body or designee.

### **Article III. Code of Ethics**

#### **(A) Prohibited Activities**

It is the policy of the County that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict, or a potential conflict exists, whenever an officer, employee or relative, as defined above, has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgment in the discharge of their responsibilities. No officer, employee or relative shall:

1. Take action or participate, in any manner whatsoever, in their official capacity, in the discussion, negotiation or awarding of any contract, or in any business or professional dealings with the County, or any agency thereof, in which the official or employee

has, or will have an interest, direct or indirect, in such contract or professional dealings.

2. Have an interest in any contract with the County of which they are an officer or employee as described in Section 801 of General Municipal Law except in those circumstances described in Section 802 of General Municipal Law.
3. Engage in, solicit, negotiate for or promise to accept private employment or render services for their personal benefit, when such employment or service creates a conflict or impairs the proper discharge of their official duties.
4. Directly or indirectly, solicit any gifts, or receive or accept any gift having the value of SEVENTY-FIVE DOLLARS (\$75.00), or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties, or was intended as a reward for any official action.
5. Disclose confidential information acquired in the course of official duties or use such information to further their personal interest, or use, for profit, information about the property, affairs, finances or government of the County that is not generally available to the public, exclusive of information available to the public under Freedom of Information laws.
6. Take action on a matter before the County or any instrumentality thereof when the performance of that action would provide a pecuniary or material benefit to themselves, their spouse or their child.
7. Pursue a course of conduct which will raise suspicion among the public that they may be engaged in acts that are in violation of the public's trust or give the appearance of impropriety or unethical conduct.
8. No person who has served as an officer or employee of the county or any county agency shall, within a period of six months after termination of such service or employment, appear before any board or agency of Cortland County or receive any compensation for services rendered on behalf of any person (other than for themselves), firm, corporation or association in relation to any case, proceeding or application, with respect to which such person was directly concerned or in which they personally participated during the period of their service or employment or was under consideration.
9. Use of public property. No county officer or employee shall use or permit the use of county property (including land, vehicles, equipment, materials and/or any other property) for personal convenience or profit, except when such use is available to

county citizens, generally, or is provided as a condition of county employment or as a matter of departmental or county policy.

(B) Disclosure of Interest

1. Any officer or relative who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Board of the County or by any other official, board, agency, officer or employee of the County, and who participates in the discussion or gives an opinion or advice to any board, agency or individual considering the same, shall, as soon as reasonably possible, publicly disclose on the official record the nature and the extent of such interest.
2. Any officer, employee or relative who has, will have or later acquires an interest in any actual or proposed contract with the County of which they are an officer or employee shall publicly disclose the nature and extent of the interest in writing to the County Legislature as soon as knowledge of such actual or prospective interest.
3. Any officer or employee of the County, or relative, who has knowledge of any matter being considered by any board, agency, officer or employee of the County in which matter they have, will have, or intends to acquire any direct or indirect interest, shall be required to immediately disclose, in writing, such interest to the board, agency, officer or employee, and the nature and extent thereof, to the degree that such disclosure gives substantial notice of any potential conflict of interest.

(C) Limitation upon filing for election; Dual Office Holding

1. No appointed County Officer or Department Head may run for the County Legislature without first resigning their appointive position. The reason for this prohibition is to avoid the appearance of conflict that inevitably occurs when one in a position to render advice or information to the legislature places him/herself in a position to compete for the elective office to which he/she renders advice.
2. A County Officer shall be deemed to have offered themselves for nomination or election to the County Legislature upon the filing of a nomination paper pursuant to New York State Election Law or formal public declaration of candidacy for such office, whichever occurs first.
3. The resignation of the County Officer duly filed in writing with the officer, board or commission having jurisdiction of the office shall, if not accepted within ten days, be deemed to have become effective as of the date of filing.
4. No person shall hold the Office of Election Commissioner concurrently with that of Chairman of any Political Party.
5. A person violating any provision of this section is guilty of misfeasance in office and

the office held by such person shall be declared vacant.

(D) Annual Code of Ethics Review

Every official and employee, as defined by this legislation, shall attest, on an annual basis, to having reviewed the Code of Ethics of Cortland County and such attestation shall be made on or before May 15th of each year.

**Article IV. Financial Disclosure**

(A) Positions Required to File

Attached hereto as "Appendix B", which is fully incorporated into this law by this reference, is a listing of all positions for which financial disclosure is required of the persons holding one or more positions contained therein. Said "Appendix B" may be amended by the adoption of a Resolution of the Legislature, as needed, subject to provisions of this law and New York State statutes. Any such amendments shall be effective immediately, and a certified copy thereof shall be filed with the Board of Ethics within five (5) days of adoption.

(B) Filing

1. Current Officials and Employees: Financial disclosure shall be accomplished by completing a copy of the Financial Disclosure Form, attached to this law as "Appendix A", which is fully incorporated into this law by this reference. Financial disclosure shall be required through the discretionary designation of the Board, as stated in Article IV Section (A) above, and is applicable to those persons as defined in Article II, sections (D), (E), and (F) above, and to those who may not fall within the specific purview of this section but are, with proper discretion, deemed to be "policy making" within the construction of Article 18 of the New York State General Municipal Law, and whose position is listed in Appendix B, attached hereto. This form shall be completed and filed with the Board of Ethics on or before May 15 of each year for which the employment is in effect.
2. New Appointees and Amendments: Any person required to file an annual statement of financial disclosure who becomes so required, experiences a change in reporting levels, is elected to office or is appointed to an office or employment with the County after April 15th, shall file the appropriate annual statement within thirty (30) days of the date upon which the change becomes effective, or the office or employment commences. The Board of Ethics may grant, upon written application, an extension of no more than thirty (30) additional days to a person filing pursuant to this paragraph upon finding that additional time is needed to file. Further extensions may only be granted for cause, upon a request made under the provisions of Article IV, Section (D).

(C) Multiple Filings

A person subject to financial disclosure filing requirements from more than one municipality may satisfy the requirements of this local law by filing only one annual statement of financial disclosure with one municipality, and filing a notice with the appropriate officials of the other(s) that such filing has been made. Such notice shall include the date and place of the filing, and a copy of the financial disclosure form so filed.

(D) Extensions of Time to File

1. Automatic Extension: Any person subject to the reporting requirements of this local law, who shall timely file with the Internal Revenue Service an application for automatic extension of time in which to file their individual income tax return for the immediately preceding calendar or fiscal year, which would extend filing with the IRS beyond May 15 of the reporting year, shall be required to submit notice of said application, on or before April 15 of the reporting year, to the Board of Ethics. Such person shall file a disclosure form, complete, except for only those portions stated to be within the application to IRS for automatic extension, on or before May 15 of the reporting year. A supplementary statement, containing all item(s) as were incomplete on the annual statement of financial disclosure shall be filed. There shall be no liability under Article IV of this local law, if said supplementary statement is filed within fifteen (15) days of the expiration of the automatic IRS extension.
2. Extensions for Cause Shown: Any person required to file an annual statement of financial disclosure may request, prior to May 1 or 15 days prior to the date the filing would otherwise be due, an extension of time to file for an additional specific period. Such request shall be made in writing to the Board of Ethics, with approval based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request, by vote of the membership, and extensions shall be for no longer than the specific period of additional time requested.

**Article V. Ethics Advisory Board**

(A) Established; Appointments; Quorum

1. Pursuant to Article 18 of the General Municipal Law, there is hereby established a County Board of Ethics, which shall be charged with general responsibility for ensuring full compliance with this code of ethics and disclosure and which shall serve at the pleasure of the Cortland County Legislature as more fully described in Article V, (C) below.
2. The County Board of Ethics shall consist of five (5) members, each appointed by a majority vote of the County Legislature. The Chairman of the Board of Ethics shall be selected by the Chairman of the County Legislature. Members of the Board of Ethics shall be construed, under this local law, as policy-making officials, and thus be subject to all appropriate ethics and disclosure requirements.

- (1) Each member of the Board of Ethics must be a resident of the County of Cortland.
- (2) At least one member of the Board shall be an elected or appointed officer or employee of the County or a municipality of the County. In no instance shall elected or appointed officers or employees of the County or municipalities of the County constitute a majority of the Board.
3. The presence of three (3) members shall constitute a quorum. Any action of the Board of Ethics shall require at least three (3) affirmative votes.

(B) Reimbursement; Terms; Vacancies

1. Members of the Board of Ethics shall serve without compensation, but shall be entitled to reimbursement of reasonable expenses and mileage, in accordance with rules established by the County Legislature.
2. Members of the Board of Ethics shall serve terms of four (4) years, however for the purpose of staggering the terms, initial appointments shall be as follows:
  - 1 member shall serve 1 year
  - 1 member shall serve 2 years
  - 1 member shall serve 3 years
  - 2 members shall serve 4 years
3. Vacancies shall be filled for the remainder of the unexpired term of the predecessor.

(C) Removal

In addition to penalties defined specifically for violation of the Cortland County Ethics Law, and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed by the Chairman of County Legislature with the concurrence of two-thirds of the County Legislature. Prior to removal, the Board of Ethics member shall be given written notice thereof, and be provided with an opportunity to reply.

(D) Powers and Duties

1. Statutory Powers - The Board of Ethics shall possess all power and duties authorized by Section 808 of General Municipal Law, as amended.
2. Necessary and Proper Powers - The Board of Ethics shall possess, exercise and enjoy all the rights, powers and privileges necessary and proper to the enforcement of the Code of Ethics and the completion and filing by officers, employees and appointed officials, of annual statements of financial disclosure required by this law.

3. **Regulatory Powers; Rule Promulgation** - The Board of Ethics shall promulgate rules and regulations in furtherance of its powers and duties, including rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of civil penalties herein authorized, and shall maintain appropriate records of its opinions and proceedings. The Board of Ethics shall have the authority to conduct investigations necessary to carry out the provisions of this law. Pursuant to this power and duty, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, whether or not a County officer, employee or appointed official, compel their attendance and require the production of any document, books or records deemed relevant or material to the resolving any adjudicatory proceeding.
4. **Advisory Opinions** - The Board of Ethics shall render advisory opinions, in writing, to officers, employees and appointed officials of the County, regarding specific matters pertaining to potential conflicts of interest, filings and reporting categories, with respect to this Law and Article 18 of the General Municipal Law, within 30 business days, whenever possible, after fully investigating the circumstances surrounding the request. Such opinions shall be rendered only upon written request of the officer, employee or appointed official concerning only the subject of the inquiry, as it pertains to the requesting individual's own filing requirements or inquiry. An opinion rendered by the Board of Ethics, until amended or revoked, shall be binding on the Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced in any criminal or civil action.
5. **Opinion Disclosure** - Opinions shall not be publically disclosed, unless required by the Freedom of Information Law (Public Officers Law Article 6), in which case the identity of the person requesting the opinion shall not be disclosed, or unless required for use in a disciplinary proceeding or proceeding under Article VII of this Local Law. Whenever a request for access to an advisory opinion is received, the officer, employee or appointed official who originally requested the opinion shall be notified of the request within forty-eight (48) hours of the receipt of the request.
6. **Filing Repository** - The Board of Ethics shall be the repository for completed annual statements of financial disclosure, pursuant to Section 808(5) of the General Municipal Law and Article IV herein, and such other written instruments, affidavits, and disclosures as required under this local law.
7. **Review of Disclosure Statements** - The Board of Ethics shall review the filed Financial Disclosure Statements and attestations submitted by officials and employees, as required by this Law, to ascertain whether any person subject to these reporting requirements has violated any local or state law governing conflicts of interest or prohibited activities.
8. **Recommendation of Conflict Resolution** - In addition to other powers conferred by

this Local Law, the Board of Ethics may recommend to the official or employee, the manner in which the conflict of interest or appearance of impropriety may be resolved. An affidavit by the official or employee detailing compliance with the recommendation may be sufficient reason to rescind the Board of Ethics decision to make a disclosure. The affidavit must be delivered to the Board of Ethics, at a specific time and place as determined and delineated by the Board of Ethics, through a certified, return receipt requested, letter to such official or employee. If the official or employee fails to follow the recommendations of the Board of Ethics by eliminating the conflict of interest or appearance of impropriety, that fact shall also be disclosed. Nothing contained herein shall be construed or interpreted to mean that the Board of Ethics is under a duty to make such recommendations to the official or the employee.

9. The County Board of Ethics shall not act with respect to the officers and employees of any municipality located within such county or agency thereof, if the municipality has established its own Board of Ethics, except that the local Board of Ethics may, at its option, refer matters to the County Board of Ethics.

#### **Article VI. Violations of the Code of Ethics**

- (A) Complaints - The Board of Ethics shall receive and investigate complaints alleging a violation of the Code of Ethics.
  1. All ethics complaints against county officials or employees must be in writing, signed and sworn to, and must contain sufficient allegations of fact to support the accusation. All complaints shall be filed with the Clerk of the Legislature, on behalf of the Board of Ethics. If, after review, a majority of the members of the Board of Ethics find that the complaint may have merit the Board of Ethics shall further investigate, pursuant to its rules and this Local Law.
  2. If a reporting person has filed a statement revealing a possible violation of the Code of Ethics, or the Board of Ethics receives a sworn complaint alleging such a violation, or if the Board of Ethics determines, on its own initiative, to investigate a possible violation, the Board of Ethics shall notify the reporting person, in writing, describe the possible violation and provide the person fifteen (15) days to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law.
  3. If the Board of Ethics thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The Board of Ethics shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual.
  4. If the Board of Ethics determines that there is reasonable cause to believe that a violation has occurred, it shall send notice of reasonable cause to the reporting

person, to the complainant, if any, and to the Clerk of the County Legislature.

5. If the Board of Ethics determines, at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any, and the Clerk of the County Legislature.
6. If the Board of Ethics finds the complaint frivolous or otherwise without merit, it shall dismiss the complaint. Any record of a dismissed complaint shall be sealed and not subject to disclosure or inspection under the Freedom of Information Law or other applicable law, unless disclosure is ordered by a court of county-wide or statewide jurisdiction, or a court of the United States.

All of the foregoing proceedings shall be confidential, except as otherwise provided in the Freedom of Information Law and Public Officer Law.

(B) Rules for Proceedings; Penalties; and Appeals

1. Rules of Proceedings - Concerning adjudicatory proceeding, the Board of Ethics shall operate as if it were an agency within the meaning of Article 3 of the State Administrative Procedure Act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under Article 78 of the Civil Practice Law and Rules as they relate to the assessment of the civil penalties herein authorized and Board denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in Article IV, paragraph E herein. Such rules, which shall not be subject to the approval requirements of the State Administrative Procedure Act, shall provide for due process procedural mechanisms substantially similar to those set forth in such Article 3 of the State Administrative Procedure Act, but such mechanisms need not be identical in terms or scope.
2. Civil Penalty; Referral - A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who intends to deceive, makes a false statement or gives information known to be false shall be assessed a civil penalty, in an amount not to exceed TEN THOUSAND (\$10,000) DOLLARS. Assessment of a civil penalty shall be made by the Board of Ethics. For a violation of this section, 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 a violation to the appropriate prosecutor and upon such conviction, shall be punishable 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 intentionally understated. Upon an appropriate determination and vote, the Board of Ethics may file a written recommendation with the Chief Elected Official or other disciplinary body, establishing grounds for removal for cause, in accordance with other provisions of Cortland County laws, rules, regulations or policies governing conduct of officers,

officials and employees. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law.

3. Appeal - Assessment of a civil penalty or the Board of Ethics denial of any request shall be final, unless modified, suspended or vacated within 30 days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period and, upon becoming final, shall be subject to review at the insistence of the affected reporting individuals in a proceeding commenced against the Board pursuant to Article 78 of the Civil Practice Law and Rules.

#### **Article VII. Administrative and Legal Support**

- (A) Legal Counsel - The Cortland County Attorney may provide counsel to the Board of Ethics upon request. In the event of a conflict involving the County Attorney, the Board of Ethics shall advise the Chairman of the County Legislature, who may authorize another attorney, admitted to practice in the State of New York, to serve as counsel to the Board of Ethics.
- (B) Support Staff - The Board of Ethics may request from the County Legislature, support staff assistance in furtherance of its duties and responsibilities.
- (C) Clerical Assistance - The confidential staff to the County Administrator may assist the Board of Ethics for the purpose of (1) receiving and filing all disclosure forms, correspondence and documentation on behalf of the Board of Ethics, (2) directing and disseminating correspondence, documents, notices, etc., to the Board of Ethics' members, and (3) such other clerical duties as the Board of Ethics may direct, to the extent that other clerical staff have not been provided by the County Legislature.

#### **Article VIII. Records and Meetings of the Board of Ethics**

##### (A) Records

Notwithstanding the provisions of Article Six of the Public Officers Law, and pursuant to Article 18 of the General Municipal Law, the only records of the Board of Ethics which shall be available for public inspection are:

- (1) the information set forth in an annual statement of financial disclosure filed pursuant to this law, except the categories of value or amount and any other information deleted pursuant to an exemption granted pursuant to Article IV, (E). of this law, which shall remain confidential;
- (2) Notice of Delinquency issued;

- (3) Notice of reasonable cause to believe that a violation has occurred, after issuance; and
- (4) Notice of civil assessments imposed.

(B) Meetings

Notwithstanding the provisions of Article Six of the Public Officers Law, and pursuant to Article 18 of the General Municipal Law, no meeting or proceeding of the Board of Ethics shall be open to the public, except if expressly provided otherwise by the Board of Ethics.

**Article IX. Annual Statement of Financial Disclosure**

The County Legislature hereby designates the "Financial Disclosure Form" attached as Appendix A, incorporated by reference, as the annual statement of financial disclosure for the purpose of fulfilling the requirements of the Cortland County Ethics and Disclosure Law and the General Municipal Law of the State of New York.

**Article X. Severability**

The various elements of the Cortland County Ethics Law are explicitly intended to be construed within the application of Article 18 of the New York State General Municipal Law. Should any portion of this law be determined to be unconstitutional, improper, or otherwise void by any administrative body or court having jurisdiction, said determination shall have no bearing on the severable remainder of this local law.

**Article XI. Consistency with Laws**

This Local Law is a policy of the Cortland County Legislature, and supercedes all previously adopted Resolutions and Local Laws.