



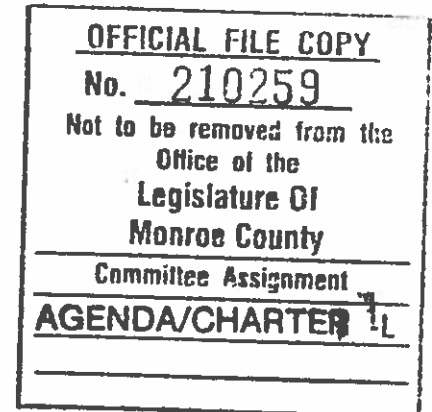
Monroe County Legislature

STEVE BREW
REPUBLICAN MAJORITY LEADER

VINCENT R. FELDER
DEMOCRATIC MINORITY LEADER

July 12, 2021

To the Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614



Subject: Enacting a Local Law Entitled "Updating Code of Ethics of the County of Monroe"

Honorable Legislators:

Every member of this Honorable Body serves as an elected, or in some cases appointed, representative of our community. As representatives, we not only represent and advocate for the policies and laws our constituents seek from their government, but also their values, ethics, and moral standards. While ultimately it is our constituents who dictate and set these standards, it is incumbent there is accountability when these are not met and this necessitates the codification of such.

All residents of Monroe County expect and deserve a government that instills public confidence through a high standard of ethics. By setting out set standards and rules that public officials of our County must abide by, and holding individuals accountable when these codes are broken, our community can have the upmost confidence in their elected representatives and their government. These ethical standards must be clear, concise, and address the many facets pertaining to the topic of governmental ethics: conduct, process, and policy.

It is the purpose of this Local Law to revise and update the Monroe County Code of Ethics to ensure the highest standard of ethics is codified, and is executed, within our local government and to ensure accountability for those who fail uphold this degree. Once again, it is the duty of this Honorable Body to represent not only our direct constituents, but also our community as a whole – including the values, ethics and standards expected and deserved.

These reforms to the Monroe County Code of Ethics will strengthen the standards of our local government, ensure all officials, employees and officers of the County have clear standards to uphold, are held accountable for ethical misconduct and represent our community in good-faith and action. Monroe County has always been a leader and we must show this once again in our ethical government representation, processes and actions.

The specific legislative actions required are:

1. Schedule and hold a public hearing on the proposed local law.
2. Enact a Local Law entitled "Updating Code of Ethics of the County of Monroe."

This is a Type II Action pursuant to 6 NYCRR 617.5(c) (26) ("routine of continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment") and is not subject to further review under the State Environmental Quality Review Act.

This action will have no impact on the revenues or expenditures of the current Monroe County budget.

Respectfully Submitted,



Steve Brew
Republican Majority Leader



Vincent R. Felder
Democratic Minority Leader

By Legislators _____ and _____

Intro No. _____

LOCAL LAW NO. _____ OF 2021

ENACT A LOCAL LAW ENTITLED "UPDATING CODE OF ETHICS OF THE COUNTY OF MONROE"

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Chapter 45, Part III, Administrative Local Laws of the Administrative Code and Charter of Monroe County, is hereby amended to read as follows:

CHAPTER 45, CODE OF ETHICS

§ 45-1. **Title.** This chapter shall be known and cited as the "Code of Ethics of the County of Monroe."

§ 45-2 **Legislative Intent.** The Legislature of the County of Monroe 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 government. It is the purpose of this chapter to promulgate rules of ethical conduct for the officers and employees of the County of Monroe. The rules adopted by this chapter are not intended to 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.

§ 45-3 **Definitions.** As used in this chapter, the following terms shall have the meanings indicated:

INTEREST

A pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires, and shall be deemed to include the business or financial affairs of the officer's or employee's spouse, minor children and dependents; a firm, partnership or association in which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

HARASSMENT

Verbal, written or physical conduct that: (1) is based on an individual's protected class under federal, state or local law; (2) is unwelcome; and (3) rises above the level of what a reasonable victim of harassment or discrimination with the same protected characteristic would consider petty slights or trivial inconveniences.

MUNICIPAL AGENCY

Any department of the County of Monroe or division, board, district, commission or bureau of any department of the County, including but not limited to the Gates-Chili-Ogden Sewer District, Irondequoit Bay Pure Waters District, Northwest Quadrant Pure Waters District, Rochester Pure Waters District, and the Monroe County local social services district.

OFFICER OR EMPLOYEE

An officer or employee of the County of Monroe, whether paid or unpaid, including members of the Monroe County Legislature, and of any administrative board, commission or other agency of the County.

SEXUAL HARASSMENT

Harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity or the status of being transgender. It includes unwelcome conduct, such as sexual advances, requests for sexual favors, sex stereotyping or other verbal, written, or physical conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity or the status of being transgender.

§ 45-4 **General standard of conduct.** No officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or ~~professional~~ activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest.

§ 45-5 **Interest in business of professional dealings with County.** No officer or employee of the County of Monroe shall have an interest, direct or indirect, in any manner whatsoever except by operation of law, in any business or professional dealings with the County of Monroe or any agency thereof.

§ 45-6 **Representing other persons or corporations in transactions with County.**
No officer or employee of the County of Monroe shall act as attorney, agent, broker, representative or employee in business or professional dealings with the County or any ~~agency~~ Municipal Agency thereof for any person or corporation in which he or she has a direct or indirect interest.

§ 45-7 **Investments conflicting with official duties.** No officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his or her duties in the public interest.

§ 45-8 **Incompatible employment.**

A. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interest when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.

B. Outside employment by employees in the Management and Professional classification shall be prohibited without exception.

§ 45-9 **Future employment.** No officer or employee shall, after the termination of service or employment with such municipality, appear before any ~~board or agency~~ Municipal Agency of the County of Monroe in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration.

§ 45-10 **Disclosure of confidential information.** No officer or employee shall disclose confidential information acquired by him or her in the course of his or her official duties or use such information to advance the financial or private interest of himself, herself or others.

§ 45-11 **Representation before agencies and courts.**

- A. One's own agency. No officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or before any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- B. Before any agency for a contingent fee. No officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- C. Courts. No officer or employee shall represent private interests in any action or proceeding against the interest of the County in any litigation to which the County is a party. If said officer is a lawyer, he or she should not engage in activities in which his or her personal or professional interests are or foreseeably may be in conflict with his or her official duties.

§ 45-12 **Gifts.** No officer or employee shall, directly or indirectly, solicit any gift or accept or receive any gift having more than a nominal value, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, from any person, firm, corporation or other entity that has a direct or indirect interest in any contract for the provision of goods or services to the County of Monroe or any ~~agency~~ Municipal Agency thereof. The term "gift" shall be defined pursuant to New York Legislative Law §1-c(j) as amended from time to time. Any local development corporation contracting with the County of Monroe shall include the requirements of the County Code of Ethics in its code of ethics.

§ 45-13 **Course of conduct.**

- A. Every officer or employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust. He or she should not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others. He should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties or that he or she is affected by the kinship, position or influence of any party or person.
- B. It shall be a violation of the Code of Ethics of the County of Monroe for an officer or employee to engage in harassment or sexual harassment.

§ 45-14 **Designation of bank as depository.** The provisions of this article shall not apply to the designation of a bank or trust company as a depository, paying agency, registration agent or other investment in funds of the County in which the municipal officer or employee has an interest by reason of stock holdings when less than 5% of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee except when the Chief Fiscal Officer, the Treasurer or his or her deputy or employee has an interest in such bank or trust company.

§ 45-15 **Designation of bank as depository.** The provisions of this article shall not apply to the designation of a newspaper, including but not limited to an official newspaper for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law.

§ 45-16

Filing annual statements of financial or business interests.

A. Time limit for filing; form of statement.

1. Every person holding the positions set forth in Subsection B below shall, on or after December 15 and before the following April 15 in each year, file with the Monroe County Board of Ethics a written statement in the form appended hereto as Appendix A-1.
2. In addition, every person holding the positions set forth in Subsection B below who is married and/or has any unemancipated children shall, on or after December 15 and before the following April 15 in each year, file with the Monroe County Board of Ethics a written statement in the form appended hereto as Appendix A-2.
3. Any person who is required to file a written statement pursuant to this section may request, prior to April 15 of each year, an extension of filing for an additional specific period of time. Such request shall be made in writing to the Board of Ethics, with approval thereof based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request, by vote of its membership, and extensions shall be for the specific period of additional time requested.
4. Any person required to file a written statement pursuant to this section, who becomes so required after April 15 of the year for which employment is in effect, shall file the appropriate annual statement within 30 days after becoming so required.
5. The information set forth in a written statement filed pursuant to this section shall be available for public inspection pursuant to Article 6 of the Public Officers Law of the State of New York, excepting and excluding, however, the categories of value or amount and any other item of information deleted pursuant to Paragraph h of Subdivision 9 of § 813 of the General Municipal Law, all of which shall remain confidential.

B. Persons holding the following positions shall file annual statements, as required in Subsection A above: all elective County officers, including County Legislators, County Executive, Sheriff, County Clerk and District Attorney; and all appointive County officers and employees holding positions in salary groups ~~49~~ 17 and above on Salary Schedule A, or equivalent salary groups on other salary schedules.

C. In the event that an uncertainty arises as to whether a person is required to file an annual statement hereunder, any such uncertainty shall be resolved by the Board of Ethics.

§ 45-17

Disclosure by officer or employee who participates in discussion with and advises County officials. Any officer or employee who has, will have or intends to acquire an interest, direct or indirect, in any matter being considered by the County Legislature or by any official, board, agency, officer or employee of the County of Monroe and who participates in discussion before or gives opinions or advice to the Legislature or to any board, agency or individual considering the same shall fully and officially disclose the nature and extent of such interest.

§ 45-18

Disclosure by officer or employee who has knowledge of matters considered by County. Any municipal officer or employee who has knowledge of any matter being considered by the County Legislature or any board, agency, officer or employee of the County of Monroe in which he or she has or will have or intends to acquire any direct or indirect interest shall be required to disclose, in

writing, his or her interest to the Legislature, such board, agency, officer or employee and the nature and extent thereof.

§ 45-19 **Disclosure of interest in proposed legislation.** Any municipal officer or employee who has a direct or indirect financial or private interest in any legislation and who participated in discussion before or gives official opinion to the Legislature shall fully and officially disclose the nature and extent of such interest. Any County Legislator who has direct or indirect financial or other private interest in any proposed legislation shall fully and officially disclose the nature and extent of such interest.

§ 45-20 **Exception of application to person serving without compensation; stock ownership.** Notwithstanding any provisions to the contrary in this article, any person serving the County or any agency thereof without compensation shall not be deemed in violation of the Article unless such interest is in conflict with the proper discharge of his or her official duties. No conflict shall be deemed to arise under this chapter by virtue of stock ownership where such ownership constitutes less than 5% of the outstanding stock of the corporation involved.

§ 45-21 **Personal actions.** Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the County of Monroe or any agency thereof on behalf of himself, herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 45-22 **Distribution of code.** The County Executive of the County of Monroe shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the County of Monroe within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment.

§ 45-23 **Penalties for offenses.** Any contract willfully entered into by or with Monroe County or any agency thereof in which there is an interest prohibited by this chapter shall be null and void and wholly unenforceable. In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code, including engaging in harassment or sexual harassment, may be fined, suspended, censured, or removed from office or employment, as the case may be, in the manner provided by law.

§ 45-24 **Establishment.** There is hereby established a Board of Ethics, consisting of ~~three~~ seven members to be appointed by the County Executive subject to confirmation by the Monroe County Legislature and who shall serve without compensation and at the pleasure of the County Executive, provided that two such members shall be appointed upon the written recommendation of the President of the Legislature, one such member shall be appointed upon the written recommendation of the Majority Leader, and one such member appointed upon the written recommendation of the Minority Leader. No more than three members may be registered members of the same political party. No person, while serving as a member of the Board, shall hold any elected office, seek election to any elected office, have business dealings with the County or any public official, hold any political party office, appear as a lobbyist before the County or make a contribution to any elected official or candidate for public office. A majority of such members shall be persons other than officers and employees of the County of Monroe but shall include at least one member who is an ~~elected or appointed~~ officer or employee of the County of Monroe. Such elected or appointed officer shall be entitled to his or her usual compensation when attending upon the business of the Board.

§ 45-25 **Powers and duties.**

- A. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law, including but not limited to the powers and duties set forth in §§ 811(1)(d) and 813 of the General Municipal Law, and shall render advisory opinions to the officers and employees of the County of Monroe with respect to Article 18 of the General Municipal Law and the Code of Ethics of the County of Monroe, adopted herein. Such advisory opinions shall be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board may prescribe and shall have the advice of counsel employed by the Board or, if none, the County Attorney.
- B. The Board may also accept from the general public, an officer or employee, or from its own members and consider any complaint or allegation of conflict of interest, harassment, or sexual harassment on the part of any officer or employee of Monroe County. All such complaints or allegations are to be kept in the confidential records of the Board. Should the Board determine that there is apparent merit in the complaint or allegation, it shall send a written invitation to the officer or employee so charged to appear at a private meeting of the Board and explain the apparent conflict of interest, allegation of harassment, or allegation of sexual harassment. Should: (1) such officer or employee fail to appear in response to such invitation; (2) or should he appear and such officer or employee fail to satisfy the Board that there is no conflict of interest; (3) the Board substantiates an allegation that the employee or officer engaged in harassment or sexual harassment, the Board shall send a written report on the matter to the County Executive County Legislature. The report shall not be made public except as set forth in § 45-26 by the County Executive or by the unanimous vote of the Board. In the event the Board receives a complaint or allegation that involves harassment or sexual harassment in the workplace, such complaint shall be referred to the Monroe County Department of Human Resources and shall be subject to the provisions of the Monroe County Policy on Unlawful Discrimination and Harassment, as amended or changed.
- C. In addition, the Board may make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon the request of the Monroe County Legislature.
- D. The Board, upon its formation, shall promulgate its own rules and regulations as to its forms and procedures and shall maintain records of its opinions and proceedings. Copies of all rules and regulations promulgated by the Board and any and all amendments thereto which may be adopted from time to time shall be filed with the Clerk of the County Legislature.
- E. The Board shall not act with respect to the officers and employees of any municipality located within such County or agency thereof where such municipality has established its own Board of Ethics, except that the Local Board may, at its option, refer matters to the County Board.
- F. The Board shall act by resolution. Such resolution shall require the affirmative vote of at least two-thirds of the total membership of the Board, except as may be otherwise provided for by this Chapter or other law.

§ 45-26 Confidentiality.

- A. Except as otherwise provided by this chapter, testimony received or any other information obtained by a member of the Board or the staff of the Board in connection with the preparation of an advisory opinion or the investigation of a complaint or referral, or the conduct of a hearing related to a complaint or referral, is confidential and shall not be disclosed by any such individual to any person or entity outside the Board. In no event shall financial disclosure statement filed with the Board pursuant to § 45-16 be deemed confidential. However, the Board shall provide all documents requested by the County Legislature or a duly authorized committee of the County

Legislature that is exercising oversight of the Board of Ethics. Such a request for records must be approved by a two-thirds vote of the Legislature. Nothing in this section shall be construed to prevent the disclosure of confidential information to law enforcement when such information may involve criminal activity.

- B. Any unauthorized disclosure of confidential information by a member of the Board, or the executive director, independent counsel or staff of the Board, shall be a violation punishable by a fine of not more than \$1,500, or imprisonment of not more than 15 days, or both.

§ 45-27 **Training.** All members of the Board shall receive a minimum of two (2) hours of training annually on all applicable provisions of law relating to conflicts of interest and ethics at the Federal, State, and County level which are necessary for the discharge of their duties. The training shall be provided by either the County Law Department or through an outside counsel/trainer selected via a competitive request for proposals.

§ 45-28 **Severability.** If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. This local law shall take effect after filing with the Secretary of State pursuant to Section 27 of New York Municipal Home Rule Law.

Added language is underlined.

Deleted language is ~~stricken~~.

_____ Committee; _____ – CV: _____
File No. 21-_____.LL

ADOPTION: Date: _____ Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ DATE: _____

EFFECTIVE DATE OF LOCAL LAW: _____