

LOCAL LAW No. 7 - 1973

A local law establishing a code of ethics.

Became a law with the approval of the county executive, April 24, 1973. Passed by the local legislative body of the county of Erie. Filed in the office of the secretary of state April 30, 1973.

Be it enacted by the legislature of the county of Erie as follows:

Section 1. Purpose and scope. This code of ethics is enacted pursuant to article eighteen of the General Municipal Law. It is the purpose of this code to establish high standards of ethical conduct for county officers and employees, to afford them clear guidance, and to assure public confidence in county government. This code shall be in addition to all other legal restrictions, standards and provisions pertaining to the conduct of county officers and employees. Every provision of this code, except as expressly limited, shall apply to every officer and employee of Erie county, whether paid or unpaid, including members of any administrative board, commission or other agency and every officer or employee paid from county funds; provided, however, that no person shall be deemed to be a county officer or employee solely by reason of being a judge or justice of any court or a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

§ 2. Disclosure of interests; legislative abstention. a. Disclosure of interests regardless of conflict.

Every county officer or employee (excepting unpaid members of advisory boards, commissions, councils and bodies) who (i) holds an elective office, or (ii) is in the exempt class of the civil service, excepting students and trainees, or (iii) is authorized in the usual course of his duties to exercise a substantial degree of discretion in financial or regulatory transactions with private entities, shall, within thirty days after taking office and within thirty days after any change in the status of the matters hereinafter enumerated, file with the county clerk a statement in writing, identifying: (1) the name of any corporation for profit in which he, and/or his spouse, and/or any of his children holds five percent or more of the stock; (2) real property situate in Erie county which he, his spouse, or any of his children holds for profit or from which he, his spouse, or any of his children receives rents or income, excepting such real property as is maintained for use as his residence or the residence of his spouse or any of his children, as the case may be; (3) self-employment or employment by or membership in or on the board of directors of any corporation, partnership, association, person or other entity from which he derives gross income in excess of five hundred dollars per year. Any such county officer or employee who does not have any such interest shall so file a statement to that effect. Such statements of disclosure shall be matters of public record and shall be indexed and maintained on file in an appropriate manner by the county clerk. It shall be the responsibility of the head of every county department or administrative unit prior to January thirty-first of each year to determine and compile a list of the persons in his department or agency who in his judgment are within the scope of this provision and to notify them in writing of this requirement.

b. Disclosure of interest in county business. To the extent that he knows thereof, a member of the legislature and any officer or employee of the county of Erie, whether paid or unpaid, who participates in the discussion or gives official opinion to the legislature, the county executive or any other officer or employee, on any matter before the legislature, the county executive or officer or employee, shall disclose the nature and extent of any direct or indirect financial or other private interest he has in such matter in a concise written statement to the chairman of the legislature, who shall direct such statement to be printed in the official record of the proceedings of the legislature.

c. Disclosure and abstention in proceedings of county legislature. When a member of the Erie county legislature must take official action on a matter in which he has a substantial personal economic interest distinct from that of the general community, his constituents, or a substantial class of the general community or his constituents, he should consider divesting himself of that interest, if he feasibly can do so without undue hardship. His decision in that regard shall be conclusive. If he does not divest himself of such interest, he shall disclose it in a concise written statement to the chairman of the legislature, who shall direct such statement to be printed in the official record of the proceedings of the legislature. Considering both the seriousness of any possible inference of impropriety and the seriousness of the affirmative public need for his participation in the action under consideration, he may abstain from participation in such action. His decision in that regard shall be conclusive. Having made fair disclosure, his decision not to abstain shall not be deemed unethical.

§ 3. Gifts. No county officer or employee shall, directly or indirectly, solicit any gift or accept or receive any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. In the absence of clear and convincing evidence to the contrary, it shall be presumed that any gift of less than twenty-five dollars in value is not violative of this section.

§ 4. Representation before a county agency. No county officer or employee shall receive or enter into any agreement expressed or implied for compensation for services to be rendered in relation to any matter before any county agency; provided, however, that this section shall not be applicable to any county officer or employee who does not receive compensation by reason of his county position, not* to any matter before a county agency which does not possess substantial discretion in the matter, nor to any judicial proceeding in any county court or any other court.

§ 5. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the county of Erie in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 6. Abuse of position. No county officer or employee shall accept any employment or acquire any investment under circumstances in which an impression may reasonably be created that he will thereby be influenced in the conduct of his office. No county officer or employee shall use or attempt to use his official position to secure unwarranted benefits, privileges or exemptions for himself or others.

§ 7. Duty to report. Every county officer or employee shall report to the district attorney and the county attorney any action which may reasonably be interpreted as an improper attempt to influence him in the conduct of his office.

§ 8. **Reservation of rights.** Nothing in this code of ethics shall be deemed to bar or prevent the timely filing by a present or former county officer or employee of any claim, account, demand or suit against the county of Erie or any agency thereof on behalf of himself or any member of his family arising out of personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 9. **Erie county board of ethics.** a. The Erie county board of ethics, heretofore created by resolution of the Erie county legislature adopted December twenty-ninth, nineteen hundred seventy, is continued in existence, subject to the provisions of this section.

b. The board shall consist of five members, who shall serve for five-year terms of office, one such term expiring each year. In the event of a vacancy prior to the expiration of the five-year term of office of any member, his successor shall be appointed for the balance of said term. Any member may be removed from office prior to the expiration of his term of office by and at the pleasure of the county executive. As vacancies occur, successor members shall be appointed by the county executive subject to confirmation by the county legislature. There shall be no more than three members of the same political party serving on the board at any one time. A majority of the members shall be persons other than county officers or employees, but at least one member shall be a county officer or employee. All members shall reside in Erie county. All members shall serve without compensation. The members shall elect a chairman from among themselves.

c. The board shall have the powers, duties and functions provided by article eighteen of the General Municipal Law.

d. Any county officer or employee may make written request to the board to render an advisory opinion as to any question concerning the application of the Erie county code of ethics or article eighteen of the General Municipal Law to his own affairs, or if he be the head of a county department, administrative unit or other agency, the affairs of any of his subordinates. The board shall disclose its opinion only to the person who has requested it. To the extent that it can do so without disclosing the identity of the person who has requested the opinion or in relation to whose affairs the opinion has been requested, and subject to such omissions as may be appropriate in that regard, the board shall make its opinions a matter of public record.

e. The board may make and amend such rules and regulations as it shall consider appropriate in relation to its procedures.

§ 10. **Compilation and distribution of this code.** The county executive shall cause a copy of this code to be compiled with article eighteen of the General Municipal Law and such other matter as he shall deem relevant and shall cause a copy of such compilation to be distributed to every officer and employee of the county within thirty days after the effective date of this local law or as soon thereafter as may be practicable. Every officer and employee elected or appointed thereafter shall be furnished a copy of such compilation within ten days after entering upon the duties of his office or employment.

§ 11. **Sanctions.** In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

§ 12. **Repeal.** This local law repeals the code of ethics for the county of Erie adopted by resolution of the Erie county legislature on February second, nineteen hundred seventy-one.

§ 13. **Effective date.** This local law shall take effect immediately.