RESOLUTION

Councilman Jessup offered the following resolution which was seconded by Councilman O'Hare, who moved its adoption:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF LAGRANGE, DUTCHESS COUNTY, NEW YORK TO REPLACE THE CURRENT CHAPTER 28 OF THE TOWN CODE "CODE OF ETHICS" WITH A NEW CHAPTER 28 "ETHICS LAW".

WHEREAS, a public hearing in relation to said local law was held on August 11, 2010 at 7:30 p.m., prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of LaGrange for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

TOWN OF LAGRANGE LOCAL LAW NO. 4 OF THE YEAR 2010

Section 1. Title.

This local law shall be known and may be cited as the "Ethics Law of the Town of LaGrange."

Section 2. Chapter 28 "Code of Ethics" is hereby deleted, in its entirety from the Town Code of the Town of LaGrange and replaced with the following new Chapter 28:

Chapter 28
ETHICS LAW
ARTICLE I

§28-1. **Purpose.**

The purposes of this chapter are:

A. to establish high standards of ethical conduct for officers and employees of the Town;

B. to afford officers and employees of the Town clear guidance on such standards;

C. to promote public confidence in the integrity of the governance and administration of the Town and its agencies and administrative offices;

D. to require Town officers and employees to recuse themselves if there is the possibility of taking action where financial interests may influence or be perceived to influence their actions so as to minimize unwarranted suspicion and enhance the accountability of government to the people; and

E. to provide for the fair and effective administration of this local law.

§28-2. **General Municipal Law §806**

This local law is enacted pursuant to section 806 of the General Municipal Law of the State of New York and section 10 of the Municipal Home Rule Law and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law. This local law also supplements other provisions of law regulating ethics in local government, such as section 107 of the Civil Service Law of the State of New York. To the extent this chapter is inconsistent with the provisions of section 808 of the General Municipal Law, this chapter shall supersede those provisions.

ARTICLE II
SUBSTANTIVE PROVISIONS

§28-3. **Code of Ethics for Town Officers and Employees.**

A. General Prohibition.

A Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons:

(1) the Town officer or employee;

(2) his or her outside employer or business;

(3) a member of his or her household;

(4) a customer or client;

(5) a relative.

B. Recusal.

A Town officer or employee shall promptly recuse himself of herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may financially benefit any of the persons listed in subdivision A of this section.

C. Gifts.

A Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town nor accept anything of value from any person under circumstances in which it could reasonably be inferred that the value given was intended to influence the Town officer or employee or could reasonably be expected to influence the Town officer or employee, in the performance of the official duties of the office or employee or was intended as a reward for any official action taken by the officer or employee.

D. Representation.

A Town officer or employee shall not represent any other person, outside employer or business in any matter that such person, outside employer or business has before the Town nor represent any other person, outside employer or business in any matter against the interests of the Town.

E. Appearances.

A Town officer or employee shall not appear before any agency of the Town, except on his or her own behalf or on behalf of the Town.

F. Confidential information.

Town officers and employees and former Town officers and employees shall not disclose any confidential information or use it to further anyone's personal interests or remove any confidential information from Town premises.

G. Political solicitation.

A Town officer or employee shall not knowingly request, or knowingly authorize anyone else to request, any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

H. Revolving door.

A Town officer or employee shall not appear or practice before the Town or any board or agency of the Town, except on his or her own behalf, or receive compensation for working on any matter before the Town or any board or agency of the Town, for a period of one year after the termination of his or her Town service or employment, as to any matter on which the Town officer or employee personally worked while in Town service.

I. Avoidance of conflicts.

Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.

J. Inducement of others.

No person, whether or not a Town officer or employee, shall induce or attempt to induce a Town officer of employee to violate any of the provisions of this Code of Ethics.

§28-4. **Transactional Disclosure.**

Whenever a Town officer or employee is required to recuse himself or herself under the Code of Ethics set forth in section 3 of this chapter, he or she

A. shall immediately refrain from participating further in the matter,

B. shall promptly inform his or her superior, if any, and

C. shall promptly file with the Town Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board.

§28-5. **Exclusions from the Code of Ethics and from Transactional Disclosure.**

The provisions of sections 3 and 4 of this chapter shall not prohibit, or require recusal or transactional disclosure as a result of:

A. An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States.

B. A ministerial act.

C. Gifts

(1) received by the Town officer or employee from a relative; or

(2) accepted on behalf of the Town and transferred to the Town.

D. Gifts or benefits having a value of $100 or less that are received by a Town officer or employee listed in section 11 of the Domestic Relations Law of the State of New York for the solemnization of a marriage by that officer or employee at a place other than his or her normal public place of business or at a time other than his or her normal hours of business.

E. Awards from charitable organizations.

F. Receipt of Town services or benefits, or use of Town facilities that are generally available on the same terms and conditions to residents or a class of residents in the Town.

G. Representation of constituents by elected officials without compensation in discharge of official duties.

H. Town officers or employees appearing or practicing before the Town or receiving compensation for working on a matter before the Town or receiving

compensation for working on a matter before the Town after termination of their Town service or employment where they performed only ministerial acts while working for the Town.

§28-6. **Interests in Contracts with the Town.**

A. Prohibited interests.

No Town officer or employee shall have an interest in a contract with the Town or an interest in a bank or trust company that is prohibited by section 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by section 804 of that law.

B. Discloseable interests.

Any Town officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the Town, other than those permitted under section 802(2) of the General Municipal Law shall publicly disclose the nature and extent of that interest in accordance with section 803 of the General Municipal Law. The Clerk of the Town Board shall cause a copy of that disclosure to be filed promptly with the Ethics Board.

C. Violations.

Any Town officer or employee who willfully and knowingly violates the provisions of this section shall be subject to removal.

§28-7. **Definitions.**

Unless otherwise stated or unless the context otherwise requires, when used in this chapter:

A. "Appear" and "appear before" mean communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone.

B. "Customer or client" means (a) any person to whom a Town officer or employee has supplied goods or services during the previous twenty-four months having, in

the aggregate, a value greater than $1,000 or (b) any person to whom a Town officer's or employee's outside employer or business has supplied goods or services during the previous twenty-four months having, in the aggregate, a value greater than $1,000 but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

C. "Ethics Board" means the Ethics Board of the Town of LaGrange established pursuant to section 28-14 of this chapter.

D. "Gift" and "financial benefit" shall include any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

E. "Ministerial act" means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

F. "Town" means the Town of LaGrange but shall not include the Town court.

G. "Town officer or employee" means any officer or employee of the Town, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, bureau, or committee of the Town. "Town officer or employee" shall not include:

(1) A judge, justice, officer, or employee of the unified court system; or

(2) A volunteer fire fighter or civil defense volunteer, except a fire chief or assistant fire chief.

H. "Outside employer or business" means:

(1) any activity, other than service to the Town, for which the Town officer or employee receives compensation for services rendered or goods sold or produced during the previous twenty-four months having, in the aggregate, a value greater than $1,000;

(2) any entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or good sold or produced; or

(3) any entity in which the Town officer or employee has an ownership interest, except a corporation of which the Town officer or employee owns less than five percent of the outstanding stock.

For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

I. "Person" shall include both individuals and entities.

J. "Relative" means a spouse, child or step-child of the Town officer or employee, or a person claimed as a dependent on the Town officer's or employee's latest individual state income tax return.

K. "Subordinate" of a Town officer or employee shall mean another Town officer or employee over whose activities the Town officer or employee has direction, supervision, or control, except those who serve in positions that are in the exempt classification under section 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of section 35 of that law.

§28-8. **Appearances by Outside Employers and Businesses of Town Officers and Employees.**

A. Except as provided in subdivision C of this section, the outside employer or business of a Town officer or employee shall not appear before the particular agency in which the Town officer or employee serves or by which he or she is employed.

B. Except as provided in subdivision C of this section, the outside employer or business of a Town officer or employee shall not appear before any other Town agency if the Town officer or employee has the authority to appoint any officer, employee, or member of the agency or to review, approve, audit, or authorize any budget, bill, payment, or claim of the agency.

C. Nothing in this section shall be construed to prohibit the outside employer or business of a Town officer or employee from

(1) appearing on its own behalf, or on behalf of the Town, before a Town agency;

(2) seeking or obtaining a ministerial act; or

(3) receiving a Town service or benefit, or using a Town facility which is generally available to the public.

§28-9. **Void Contracts.**

Any contract or agreement entered into by or with the Town which results in or from a violation of any provision of sections 3, 4, or 7 of this chapter shall be void unless ratified by the Town Board. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this chapter or any other provision of law.

§28-10 **The Appearance of Impropriety**

A. No Town officer or employee shall pursue a course of conduct which will raise suspicion among the public that he or she may be engaged in acts that are in violation of the public's trust or give the appearance of impropriety or unethical conduct.

B. If the conduct of a Town officer or employee creates an appearance of impropriety, the Town officer or employee is required to immediately recuse him or herself from all discussions, deliberations and determinations regarding the application or subject matter.

C. Any Town officer or employee who is uncertain as to whether his or her conduct will violate subsection 10(A), above, should seek an advisory opinion from the Board of Ethics pursuant to Section 21, below.

D. The question of whether conduct will create an appearance of impropriety is a reviewed on a case-by-case basis. The test to be applied in such situations is not whether there is an actual conflict, but whether there **might** be a conflict. A list of conduct that has previously been found to create an appearance of impropriety is included within Appendix A. Such list is not an exhaustive list of conduct that may result in an appearance of impropriety, but instead is used to serve as a general illustrative guide to assist Town officers and employees.

§28-11. **Penalties.**

A. Disciplinary action

Any Town officer or employee who engages in any action that violates any provision of this chapter may be warned or reprimanded or suspended or removed from office or employment, or be subject to an other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

B. Civil fine.

Any Town officer or employee who violates any provision of this chapter may be subject to a civil fine of up to $1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture pursuant to subdivision D of this section. A civil fine may not be imposed for a violation of section 7 of this chapter.

C. Damages.

Any person, whether or not a Town officer or employee, who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture pursuant to subdivision D of this section.

D. Civil forfeiture.

Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation.

A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil fine pursuant to subdivision B or damages pursuant to subdivision C of this section. Civil forfeiture shall not be available for a violation of section 7 of this chapter.

§28-12. **Debarment**

A. Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter shall be prohibited from entering into any contract with the Town for a period not to exceed three years, as provided in subdivision E of section 20 of this chapter. Debarment may not be imposed for a violation of section 7 of this chapter.

B. No person, whether or not a Town officer or employee, shall enter into a contract in violation of a bar imposed pursuant to subdivision A of this section.

C. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public.

D. No corporation, partnership, or other entity shall be held vicariously liable under this section for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

§28-13. **Injunctive Relief.**

A. The Town Board, on behalf of the Town, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the Town from violating this chapter or

to compel an officer or employee of the Town to comply with the provisions of this chapter. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

B. No action or special proceeding shall be prosecuted or maintained pursuant to subdivision A of this section, unless:

(1) the plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the officer or employee,

(2) it shall appear by and as an allegation in the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter, and

(3) the action or special proceeding shall be commenced within ten months after the alleged violation occurred.

ARTICLE III
ADMINISTRATIVE PROVISIONS

§28-14 **Ethics Board: Establishment; Qualifications of Members; Appointment of members; Term of Office.**

A. There is hereby established an Ethics Board consisting of five members.

B. No member of the Ethics Board may be an elected officer, an appointed officer or an employee of the Town. Of the total membership of the Board, no more than two shall be enrolled in the same political party.

C. No Ethics Board member shall hold office in a political party or be employed or act as a lobbyist or hold elective office in the Town. An Ethics Board member may make campaign contributions but may not participate in any election campaign.

D. Within 60 days after the effective date of this local law, and no later than December 31 each year thereafter, the Town Board shall appoint the members of the Ethics Board.

E. The term of office of Ethics Board members shall be three years and shall run from January 1 through December 31, except that, of the members first appointed, one member shall serve until December 31 of the year in which the Board is established, two shall serve until the second December 31, and two shall serve until the third December 31.

F. An Ethics Board member shall serve until his or her successor has been appointed. Consecutive service on the Ethics Board shall not exceed two full terms.

G. The members of the Ethics Board shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

§28-15. **Ethics Boards: Vacancies.**

When a vacancy occurs in the membership of the Ethics Board, the vacancy shall, within 60 days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Ethics Board shall meet the qualifications set forth in section 11 of this chapter.

§28-16 **Ethics Board: Removal of Members.**

An Ethics Board member may be removed from office in the same manner in which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in section 11 of this chapter, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this chapter.

§28-17. **Ethics Board: Meetings.**

At its first meeting each year, the Ethics Board shall elect a chair from among its members. A majority of the Board shall be required for the Board to take any action. The chair or a majority of the Board may call a meeting of the Board.

§28-18. **Ethics Boards: Jurisdiction, Powers, and Duties.**

A. The Ethics Board may only act with respect to officers and employees of the Town.

B. The termination of a municipal officer's or employee's term of office or employment with the Town shall not affect the jurisdiction of the Ethics Board with respect to the requirements imposed on the former office or employee by this chapter during his or her term of office or employment.

C. The Ethics Board shall have the following powers and duties:

(1) to prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this chapter;

(2) to appoint hearing officers and such other staff as are necessary to carry out its duties under this chapter, and to pay for the services of such hearing officer(s) or staff, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefore by the Town Board for the Board of Ethics;

(3) to review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct investigations pursuant to section 14 of this chapter;

(4) to conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to section of this chapter;

(5) to render, index, and maintain on file advisory opinions pursuant to section 21 of this chapter;

(6) to provide training and education to Town officers and employees pursuant to section 23 of this chapter;

(7) to prepare an annual report and recommend changes to this local law pursuant to section 24 of this chapter;

(8) to provide for public inspection of certain records pursuant to section 25 of this chapter; and

(9) to select provisions of this chapter for reproduction and distribution pursuant to section 27 of this chapter.

§28-19. **Investigations.**

A. Upon receipt of a sworn complaint by any person alleging a violation of this Chapter, or upon determining on its own initiative that a violation of this Chapter may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this Chapter. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records with it may deem relevant and material.

B. The Ethics Board shall state in writing the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. All such statements and all sworn complaints shall be indexed and maintained on file by the Board.

C. Any person filing a sworn complaint with the Ethics Board shall be notified in writing of the disposition of the complaint.

D. Nothing in this section shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Board or any of its members of staff has

violated any provision of this Chapter, or any other law, the Board shall promptly transmit to the Town Board a copy of the complaint.

§28-20. **Hearings; Assessment of Penalties; Injunctive Relief.**

A. Disciplinary action.

In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend appropriate disciplinary action pursuant to subdivision A of section 11 of this chapter. The recommendation of the Ethics Board shall be made to the appointing authority or person or body authorized by law to impose such sanctions. The Board shall conduct and complete the hearing with reasonable promptness, unless in its discretion the Board refers the matter to the authority or person or body authorized by law to impose disciplinary action or unless the Board refers the matter to the appropriate prosecutor. If such a referral is made, the Board may adjourn the matter pending determination by the authority, person, body, or prosecutor.

B. Civil fine.

In its discretion and after a hearing providing for due process procedural mechanisms, the Ethics Board, pursuant to subdivision B of section 9 of this chapter, may assess a civil fine, not to exceed $1,500 for each violation, upon any municipal officer or employee found by the Board to have violated this Chapter. The Board shall conduct and complete the hearing with reasonable promptness. The civil fine shall be payable to the Town.

C. Damages.

The Town Board may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in subdivision C of section 9 of this chapter.

D. Civil forfeiture.

The Town Board, or the Ethics Board on behalf of the Town after authorization by the Town Board, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture, as provided in subdivision D of section 9 of this chapter.

E. Debarment.

The Town Board, or the Ethics Board on behalf of the Town after authorization by the Town Board, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for an order of debarment, as provided in section 12 of this chapter.

F. Injunctive relief.

The Town Board, or the Ethics Board on behalf of the Town after authorization by the Town Board, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this Chapter or to compel compliance with this chapter, as provided in section 13 of this chapter.

G. Prosecutions.

The Ethics Board may refer to the appropriate prosecutor possible criminal violations of this Chapter. Nothing contained in this Chapter shall be construed to restrict the authority of any prosecutor to prosecute any violation of this Chapter or of any other law.

H. Limit on Board.

Nothing in this section shall be construed to permit the Ethics Board to take any action with respect to any alleged violation of this Chapter, or of any other law, by the Board or by any member or staff member thereof.

§28-21. **Advisory Opinions.**

A. Upon the written request of any Town officer or employee, the Ethics Board may render a written advisory opinion with respect to the interpretation or application of this Chapter or of Article 18 of the General Municipal Law of the State of New York. Any other person may similarly request an advisory opinion but only with respect to whether his or her own action might violate a provision of this chapter or Article 18.

B. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.

C. Any person aggrieved by an advisory opinion of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

D. Any person who has submitted to the Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an other compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with section 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this subdivision unless (a) it shall appear by and as an allegation in the petition or complaint that at least six months have elapsed since the filing of the request and that the Ethics Board has failed to file any determination in that matter and (b) the action or special proceeding shall be commenced within ten months after the submission of the request for the advisory opinion.

§28-22. **Judicial Review.**

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§28-23. **Training and Education**

The Ethics Board:

A. shall make information concerning this Chapter and Article 18 of the General Municipal Law available to the officers and employees of the Town, to the public, and to persons interested in doing business with the Town, and

B. shall develop educational materials and an educational program for the officers and employees of the Town on the provisions of this Chapter and on Article 18 of the General Municipal Law.

§28-24. **Annual Reports; Review of Ethics Laws.**

A. The Ethics Board shall prepare and submit an annual report to the Town Board, summarizing the activities of the Board. The report may also recommend changes to the text or administration of this Chapter.

B. The Ethics Board shall periodically review this Chapter and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable, common sense standards of conduct.

§28-25. **Public Inspection of Records; Public Access to Meetings**.

A. The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other State or Federal law or regulation.

B. No meeting or proceeding of the Ethics Board concerning misconduct, nonfeasance, or neglect in the office by a Town officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other State or Federal law or regulation.

§28-26. **Miscellaneous Provisions.**

A. No existing right or remedy shall be lost, impaired, or affected by reason of this Chapter.

B. Nothing in this Chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town of behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. If any provision of this Chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this Chapter.

§28-27. **Posting and Distribution.**

A. Within 90 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Town Supervisor, in a form suitable for posting, copies of those provisions of this Chapter which the Ethics Board deems necessary for posting in the Town. Within ten days after receipt of those copies, the Town Supervisor shall cause the copies to be posted conspicuously in every public building under the jurisdiction of the Town.

B. Within 90 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Town Supervisor, in a form suitable for distribution, copies of those provisions of this Chapter which the Ethics Board deems necessary for distribution to the officers and employees of the Town. Within ten days after receipt of those copies, the Town Supervisor shall cause the copies to be distributed to every officer and employee of the Town and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within ten days after entering upon the duties of his or her position.

C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this Chapter shall have no effect on the duty of compliance with this Chapter or on the enforcement of its provisions.

Section 3. **Effective Date.**

This local law shall take effect immediately upon filing in the office of the Secretary of State.

APPENDIX A
CODE OF ETHICS
(Plain Language Version-intended as a general guide)

1. MISUSE OF OFFICE. You may not take an action or fail to take an action as a public servant if doing so might financially benefit you, a family member or anyone with whom you have a business or financial relationship.

2. MISUSE OF TOWN RESOURCES. You may not use Town letterhead, personnel, equipment, supplies, or resources for a non-Town purpose, nor may you pursue personal or private activities during time when you are required to work for the Town.

3. GIFTS. You may not solicit or accept anything of value from anyone that you know or should know is seeking or receiving anything of value from the Town under circumstances in which it could reasonably appear that such a gift is intended to influence the performance of your job or board duties.

4. GRATUITIES. You may not accept anything from anyone other than the Town for doing your Town job.

5. CONFIDENTIAL INFORMATION. You may not disclose confidential Town information or use it for any non-Town purpose, even after you leave Town service.

6. APPEARANCES. You may not accept anything from anyone other than the Town for communicating with any Town agency or for appearing anywhere on a matter involving the Town.

7. LAWYERS AND EXPERTS. While employed by the town, you may not receive anything from anyone to act as a lawyer or expert against the Town's interests in any lawsuit brought by or against the Town.

8. BUYING OFFICE OR PROMOTION. You may not give or promise to give anything to anyone for being elected or appointed to Town service or for receiving a promotion or raise.

9. BUSINESS WITH SUBORDINATES. You may not enter into any business or financial dealings with a subordinate or superior.

10. POLITICAL SOLICITATION OF SUBORDINATES. You may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.

11. COERCIVE POLITICAL ACTIVITY. You may not force or try to force anyone to do any political activity.

12. COERCIVE POLITICAL SOLICITATION. You may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution.

13. IMPROPER CONDUCT. You may not take any action or have any position or interest that conflicts with your Town duties.

14. INDUCEMENT OF OTHERS. You may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics.

15. DISCLOSURE AND RECUSAL. As soon as you face a possible conflict of interest under this Code of Ethics, you must disclose the conflict and recuse yourself from dealing with the matter.

16. VOLUNTEER ACTIVITIES. You may be an officer or director of a non-for-profit with business dealings with the Town if you do this work on your own, you are unpaid, the not-for-profit has no dealings with your Town agency (unless your department head approves), and you are in no way involved in the non-for-profit's business with the Town.

17. THE APPEARANCE OF IMPROPRIETY. An appearance of impropriety occurs when a Town officer or employee pursues a course of conduct which, while not expressly prohibited by either this Chapter or General Municipal Law Article 18, will raise suspicion among the public that the Town office or employee may be engaged in acts that are in violation of the public's trust or give the appearance of unethical conduct.

The following list cites to examples of conduct that has previously been found to create an appearance of impropriety by the courts of this state, by the New York State Comptroller or by the Town of LaGrange.

A. A Town Board member, who served as an officer of an advertising firm, could not vote on the zoning application of a subsidiary of one of his firm's clients, resulting in invalidation of the Town Board's vote on the matter.

B. The failure of three members of the Zoning Board of Appeals ("ZBA") to recuse from the discussion and vote on the application of their employer required reversal of the ZBA's decision.

C. Three Planning Board members impermissibly prejudged an application by signing a petition in favor of the rezoning and the project, requiring their recusal during Planning Board review of the project.

D. A Town Board member voted in favor of rezoning property in which she was a co-owner. The Town Board member should have recused herself; the court overturned the Town Board's rezoning resolution.

E. The private business of a Planning Board member was the sale and/or servicing of specialized software employed by design professionals, and such design professionals frequently represented applicants before the Planning Board. It was found that, at a minimum, the board member was required to disclose the commercial relationship between himself and the applicant's representatives. Depending upon the size of the commercial relationship between the board member's business entity and the applicant's representatives, both disclosure and recusal might be appropriate.

F. Where a Planning Board member approached a developer regarding the possible purchase of property, and such property was the subject of a land use application before the Planning Board, the Planning Board member was required to recuse himself from review of the application.

G. Town Board members should recuse themselves from discussions, and abstain from voting, on matters relating solely or primarily to the salaries of relatives.

H. Even if there is no prohibited contractual interest, a Town Board member who resides with the owner and president of a hardware store and maintains office space in the same building in which the store is located, but has no relationship with the corporation which owns the hardware store, should recuse himself from any discussions and votes of the town board matters relating to contracts between the hardware store.[1]

I. When a Planning Board member's personal attorney appears before the Board on behalf of another client, the board member should disclose his or her attorney-client relationship and, depending on the nature of that relationship, consider a recusal from the proceedings.

J. A Town Board member should recuse himself from any discussions and votes related to a contract between the Town and an architectural firm which employs the board member's daughter.

K. A Town Board member should recuse himself from all matters in connection with the private engineering firm of which he is an employee.

L. If the Town purchases insurance from an insurance company of which a Town Board member is an employee, the board member should recuse himself from all discussions and votes on the insurance contract.

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[1] Note: In this matter, the State Comptroller's Office did not have enough facts to determine whether the Town Board member had a prohibited contractual interest in the hardware store's contract with the Town.

M. A Town Board member should recuse himself from the negotiations on a collective bargaining agreement between the Town and the highway department when his son is an employee of that department.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate executed by the attorney for the Town of LaGrange that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Wagner	ABSENT
Councilman Luna	AYE
Councilman Beck	AYE
Councilman O'Hare	AYE
Councilman Jessup	AYE

DATED: LaGrangeville, New York
August 11, 2010

Margaret Schmitz
MARGARET SCHMITZ
Deputy Town Clerk

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