A LOCAL LAW CREATING AN ETHICS AND DISCLOSURE LAW

FOR THE TOWN OF MONTGOMERY

Be It Enacted By The Town Board Of The Town Of Montgomery, As Follows:

Article 1 PURPOSE

The purpose of this Local Law is to create the Town of Montgomery Ethics and Disclosure Law in compliance with article 18 of the New York State General Municipal Law (the "Ethics Law"). The citizenry of the Town of Montgomery are entitled to the expectation of exemplary ethical behavior from their officers, employees and appointed officials, and this law is intended to create the minimum standards which constitute that behavior. This legislation recognizes that varying degrees of professional and governmental responsibility warrant equitable requirements of disclosure in pursuit of official integrity, which must be balanced against individual constitutional rights. Any particulars not determined in this law shall be construed within the provisions of General Municipal Law article 18.

Article 2. SUBSTANTIVE PROVISIONS

§ 100. Code of Ethics for Town of Montgomery Officers and Employees.

100(1)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:

(a) the Town officer or employee;
(b) his or her outside employer or business;
(c) a member of his or her household;
(d) a customer or client;
(e) a relative including a parent or sibling; or
(f) a person from whom the officer or employee has received election campaign contributions of more than $ 200 in the aggregate during the past twelve months.

100(2).Recusal.

A Town officer or employee shall promptly recuse himself or herself from formally and informally 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 1 of this section. For clarity, "informally acting" may include lobbying other Town officials on behalf of a project.

100(3).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 whom the Town officer or employee knows or has reason to know has received or sought a financial benefit from the Town within the previous twenty-four months.

100(4).Representation.

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

100(5). 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.

100(6).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.

100(7).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 or election campaign. In the case of elected officials, all employees and officers of the Town are to be considered subordinates. Non-incumbent candidates for elected Town office are also subject to the provisions of this section.

100(8).Revolving door.

A Town officer or employee shall not appear or practice before the Town except on his or her own behalf, or receive compensation for working on any matter before the Town for a period of one year after the termination of his or her Town service or employment where special advantages by virtue of the prior relationship may be relized; however, the bar shall be permanent as to particular matters on which the Town officer or employee personally worked while in Town service.

100(9).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.

100(10).Inducement of others.

A Town officer or employee shall not induce or aid another officer or employee of the Town to violate any of the provisions of this Code of Ethics.

100(11) Two-Hats Provision

No Town official, who is in a position of decision-making authority as identified below, may also act as the chairperson or vice-chairperson for a Town or local (County) political committee or sub-committee while serving the Township. This provision does not apply to employees in general but does apply to officials.identified in Section 107(1)

§ 101. Transactional Disclosure.

101(1)

Whenever a Town officer or employee is required to recuse himself or herself under the Code of Ethics set forth in section 100 of this [law], he or she

(i) shall immediately refrain from participating further in the matter,

(ii) shall promptly inform his or her superior, if any, and 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.

101(2)

An officer or employee shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed with the governing body of the Town, a disclosure statement complying with requirements of section 104 of this law.

§ 102.. Exclusions from the Code of Ethics and from Transactional Disclosure.

The provisions of sections 100 and 101 of this law shall not prohibit, or require recusal or transactional disclosure as a result of:

1. An action specifically authorized by statute, rule, or regulation of the state of New York or of the United States.
2. A ministerial act.
3. Gifts

(a) received by the Town officer or employee from his or her parent, spouse, or child; or

(b) having an aggregate value of $75 or less during any twelve-month period; or

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

4. Gifts or benefits having a value of $50 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.
5. Awards from charitable organizations.

6. 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.
7. Representation of constituents by elected officials without compensation in matters of public advocacy.
8. Town officers or employees appearing or practicing 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.

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§ 103. Inducement of Violations of the Code of Ethics.

No person, whether or not a Town officer or employee, shall induce or attempt to induce a Town officer or employee to violate any of the provisions of sections 100 or 101 of this law.

§ 104. Interests in Contracts with the Town.

104(1) 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.

104(2). 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 shall publicly disclose the nature and extent of that interest in accordance with section 803 of the General Municipal Law. The clerk of the governing body of the Town shall cause a copy of that disclosure to be filed promptly with the Ethics Board.

104(3). Violations.

Any Town officer or employee who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by section 805 of the General Municipal Law.

§ 105. Definitions.

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

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

2. "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 $ 500.00 (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 $500.00 but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

3. "Ethics Board" means the Ethics Board of the Town of Montgomery established pursuant to section 203 of this law.
4. "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.
5. "Ministerial act" means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.
6. "Town" means the Town of Montgomery but shall not include the Town court.
7. "Town officer or employee" means any officer or employee of the Town of Montgomery, whether paid or unpaid, and includes all individuals identified in Section 107(1) of this law
8. "Outside employer or business" means:

(a) any activity, other than service to the Town from which the Town officer or employee receives compensation for services rendered or goods sold or produced;
(b) 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 goods sold or produced; or
(c) 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.

9. "Person" shall include both individuals and entities.
10. "Relative" means a household spouse, child, step-child, parent 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.
11. "Subordinate" of a Town officer or employee shall mean another Town officer or employee over whose activities he or she 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.

§ 106. Appearances by Outside Employers and Businesses of Town Officers and Employees.

1. Except as provided in subdivision 3 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.

2. Except as provided in subdivision 3 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 claw of the agency.

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

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

(b) 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.

§ 107. Annual Disclosure.

107(1) Officers and employees required to file.

Officers and employees holding the following job titles or positions shall be required to file a signed annual disclosure statement per the sample form in Appendix A.

(a) Elected officials: Officers and employees who hold policymaking positions, including members of municipal boards, such as the planning and zoning boards. The specific individuals who are required to file are the Town Supervisor, members of the Town Board, Town Clerk, Receiver of Taxes, Code Enforcement Officer, Highway Superintendent, Assessor, Planning Board Members, Zoning Board Members, Board of Assessment Review Members, Industrial Development Agency Members, Attorney for the Town, Town Engineer, Consulting Engineers for the above named boards and Attorneys for any and/or all boards, commissions or councils for the Town, and Building Inspector.

107(2). Time and place for filing.

Annual disclosure statements shall be filed with the Ethics Board:

(a) Within 120 days after the effective date of this section;
(b) Within 30 days after becoming subject to the requirements of subdivision 1 of this section; and
(c) No later than May 15 of each year thereafter.

107(3). Changes in disclosed information.

Removed

107(4). Contents of annual disclosure statement.

The annual disclosure statement shall disclose:

(a) The location of any real property within the Town or within one mile of the boundary of the Town in which the officer or employee, or his or her household child or parent, has a financial interest.

(b) With respect to each outside employer or business of the Town officer or employee:

(i) Its name (if any);

(ii) The nature of its business;

(ill) Whether it is self employment, a sole proprietorship, or an entity and, if an entity, what type of entity;

(iv) The Town officer's or employee's relationship to it, such as owner, partner, officer, director, member, employee, or shareholder.

(c) With respect to each outside employer or business of the Town officer's or employee's spouse, the information required by paragraph (b) of this subdivision.

107(5). Good faith efforts.

Failure to disclose the information required by subdivision 4 of this section with respect to a Town officer's or employee's spouse or other relative shall not constitute a violation of that subdivision if the officer or employee has made a good faith effort to obtain the information and if he or she also sets forth those efforts in his or her disclosure statement.

§ 108. Applicant Disclosure: Generally.

1. Where a person requests the Town or a Town officer or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to the requestor and to either any officer or employee of the Town or one of the other persons listed in subdivision 1 of section 100 of this law, the requestor shall disclose the names of any such persons, to the extent known to the requestor at the time of the request.

2. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in a writing filed with the Town Clerk.

3. A person shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed a disclosure statement complying with requirements of section 109 of this law.

§ 109. Applicant Disclosure: Land Use Applications.

109(1) Disclosure.

Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town shall state the information required, to the extent required, by section 809 of the General Municipal Law of the State of New York.

109(2). Violations.

Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by section 809 of the General Municipal Law.

§ 110. 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 100, 101, or 106 of this law shall be void unless ratified by the governing body of the Town. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this law or any other provision of law.

§ 111. Penalties.

1 Disciplinary action.

Any Town officer or employee who engages in any action that violates any provision of this law may be warned or reprimanded or suspended or removed from office or employment, or be subject to any 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 law or in any other provision of law.

2.Civil fine.

Any Town officer or employee who violates any provision of this law 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 law, other than a civil forfeiture pursuant to subdivision 4 of this section. A civil fine may not be imposed for a violation of section 104 of this law.

3.Damages.

Any person, whether or not a Town officer or employee, who violates any provision of this law shall be liable in damages to 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 law, other than a civil forfeiture pursuant to subdivision 4 of this section.

4 Civil Forfeiture.

Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this law 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 law, other than a civil fine pursuant to subdivision 2 or damages pursuant to subdivision 3 of this section. Civil forfeiture shall not be available for a violation of section 104 of this law.

5. Misdemeanor.

Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this law shall be guilty of a class A misdemeanor and, upon conviction thereof, if a Town officer or employee, shall forfeit his or her Town office or employment. This subdivision shall not apply to a violation of section 104 of this law.

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§ ***112 Debarment.***

1. Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this law shall be prohibited from entering into any contract with the Town for a period not to exceed three years, as provided in subdivision 5 of section 210 of this law. Debarment may not be imposed for a violation of section 104 of this law.
2. No person, whether or not a Town officer or employee, shall enter into a contract in violation of a bar imposed pursuant to subdivision 1 of this section.
3. 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.
4. Under this section, a corporation, partnership, or other entity shall not be held vicariously liable 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.

§ 113. Injunctive Relief.

1. Any resident, officer, or employee 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 law or to compel an officer or employee of the Town to comply with the provisions of this law. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.
2. No action or special proceeding shall be prosecuted or maintained pursuant to subdivision 1 of this section, unless (a) the plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the officer or employee, (b) 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 © the action or special proceeding shall be commenced within ten months after the alleged violation occurred.

Article 2. ADMINISTRATIVE PROVISIONS

§ 201 Designation of Officers and Employees Required to File Annual Disclosure Statements.

Within 90 days after the effective date of this local law, and during the month of March each year thereafter, the Town Supervisor of the Town shall:

(a) Cause to be filed with the Ethics Board a list of the names and offices or positions of all Town officers and employees required to file annual disclosure statements pursuant to section 107 of this law; and

(b) Notify all such officers and employees of their obligation to file an annual disclosure statement.

§ 202 Maintenance of Disclosure Statements

1. The Town Clerk shall transmit promptly to the Ethics Board each transactional and applicant disclosure statement filed pursuant to sections 101, 104, 108, and 109 of this law.
2. The Ethics Board shall index and maintain on file for at least seven years all disclosure statements filed with the Board pursuant to sections 101, 104, 107, 108, and 109.

§ 203. ***Ethics Board: Establishment; Qualifications of Members, Appointment of Members, Terms of Office.***

1. There is hereby established an Ethics Board consisting of five members.
2. No member of the Ethics Board may be an appointed or elected officer or employee of the Town. Of the total membership of the Board, no more than two shall be registered in the same political party.
3. 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. *Comment: The prohibition against an elected official of the Town from serving on the ethics board is contrary to Section 808(3) of Article 18 of the General Municipal Law but authorized, under home municipal rule, by rulings from the NY Attorney General's Office (86-44 and 91-68).*
4. Within 60 days after the effective date of this local law, and no later than December 31 each year thereafter, the Town Supervisor, with the advice and consent of the Town Board shall appoint the members of the Ethics Board.
5. 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.
6. 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.

7. 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.

§ 204. 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 203 of this law.

§ 205. 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 203 of this law, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this law.

§ 206. 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.

§ 207. Ethics Boards: Jurisdiction, Powers, and Duties.

1. The Ethics Board may only act with respect to officers and employees of the Town of Montgomery.
2. 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 him or her by this law.
3. The Ethics Board shall have the following powers and duties:

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

(b) To appoint hearing officers, an executive director, if necessary, and such other staff as are necessary to carry out its duties under this law, and to delegate authority to the executive director, if any, to act in the name of the Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated and further provided that the Board shall not delegate the power to determine violations, recommend disciplinary action, impose any civil fine, refer any matter to a prosecutor, or render any advisory opinion. An executive director shall meet the qualifications of an ethics board member as specified in section 203 of this law;

(c) To review, index, and maintain on file lists of officers and employees, and disclosure statements filed with the Board, pursuant to sections 101, 104, 107, 108, 109, 201, 202, and 208 of this law;

(d) To review, index, maintain on file, and dispose of sworn complaints and to make notifications and conduct investigations pursuant to sections 208 and 209;

(e) To conduct hearings, recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to section 210;

(f) To grant waivers pursuant to section 211;

(g) To render, index, and maintain on file advisory opinions pursuant to section 212;

(h) To provide training and education to Town officers and employees pursuant to section 214;

(i) To prepare an annual report and recommend changes to this local law pursuant to section 215;

(j) To provide for public inspection of certain records pursuant to section 216; and

(k) To select provisions of this law for reproduction and distribution pursuant to section 218.

(l) To require that al employees and officials sign an annual form that they have read and are familiar with the requirements of this ethics law.

4. The Town Attorney and/or his deputy shall serve as counsel to the Ehtics Board.

§208. Review of Lists and Disclosure Statements.

1 The Ethics Board shall review:

(a) The lists of officers and employees, prepared pursuant to section 201 of this law, to determine whether the lists are complete and accurate. The Board shall add the name of any other officer or employee who the Board determines should appear on the list pursuant to section 107.
(b) All annual disclosure statements to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this law.
(c) All transactional disclosure statements.

2. If the Board determines that an annual disclosure statement or a transactional disclosure statement is deficient or reveals a possible or potential violation of this law, the Board shall

notify the person in writing of the deficiency or possible or potential violation and of the penalties for failure to comply with this law.

§ 209. Investigations.

1. Upon receipt of a written complaint by any person alleging a violation of this law, or upon determining on its own initiative that a violation of this law may exist, the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this [law]. 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, which it may deem relevant and material.
2. 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.
3. Any person filing a written complaint with the Ethics Board shall be notified in writing of the disposition of the complaint. If any official or employee was the subject of the written complaint, that official or employee shall also be informed in writing of the disposition of the complaint.
4. 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 or staff has violated any provision of this law, or any other law, the Board shall promptly transmit to the Montgomery Town Board a copy of the complaint.

§ 210. Hearings; Assessment of Penalties; Injunctive Relief

1 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 1 of section 111 of this law. 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.

2. Civil fine.

In its discretion and after a hearing providing for due process procedural mechanisms, the Ethics Board, pursuant to subdivision 2 of section 111 of this law, may assess a civil fine, not to exceed $1,500 for each violation, upon any municipal officer or employee found by the Ethics Board to have violated this law. The Board shall conduct and complete the hearing with reasonable promptness. The civil fine shall be payable to the Town.

3.Damages.

The Montgomery Town Board may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in subdivision 3 of section 111 of this law.

4.Civil forfeiture.

The Montgomery Town Board or the Ethics Board on behalf of the Montgomery 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 4 of section 111 of this law.

5.Debarment.

The Montgomery Town Board or the Ethics Board on behalf of the Montgomery 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 112 of this law.

6.Injunctive Relief.

The Montgomery Town Board or the Ethics Board on behalf of the Montgomery 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 law or to compel compliance with this law, as provided in section 113 of this law.

7.Prosecutions.

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

8.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 law, or of any other law, by the Ethics Board or by any member or staff member thereof.

§ 211 Waivers

1. Upon written application and upon a showing of compelling need by the applicant, the Ethics Board may in exceptional circumstances grant the applicant a waiver of any of the provisions of subdivisions 1 through 9 of section 100, paragraph (i) of subdivision 1 of section 101, section 106, section 107, or section 108 of this law, provided, however, that no such waiver shall permit conduct otherwise prohibited by Article 18 of the General Municipal Law of the State of New York. All such waivers must be made in open session of the Ethics Board after appropriate publication of the open session in the Town's official newspaper.
2. Waivers shall be in writing and shall state the grounds upon which they are granted. Within 10 days after granting a waiver, the Ethics Board shall publish a notice setting forth the name of the person requesting the waiver and a general description of the nature of the waiver in the official newspaper designated by the Town for the publication of local laws, notices, and other matters

required by law to be published. All applications, decisions, and other records and proceedings relating to waivers shall be indexed and maintained on file by the Ethics Board.

§ 212. Advisory Opinions.

1. 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 law 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 law or Article 18.
2. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.
3. 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.
4. 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 order 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 the matter and (b) the action or special proceeding shall be commenced within ten months after the submission of the request for the advisory opinion.

§ 213 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.

§214 Education by the Ethics Board:

(a) shall make information concerning this law 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 law and on Article 18 of the General Municipal Law.

§215 Annual Reports; Review of Ethics Laws.

1. The Ethics Board shall prepare and submit an annual report to the Montgomery Town Supervisor summarizing the activities of the Board. The report may also recommend changes to the text or administration of this law.
2. The Ethics Board shall periodically review this law 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.

§ 216. Public Inspection of Records; Public Access to Meetings.

1. 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. *Comment: Disclosure forms should be made readily available to the public. Ethics Board communication regarding inquiries from Town officials about advice concerning a particular matter should be kept confidential to the extent possible, otherwise officials will be discouraged from seeking advice. Communication relating to any allegation of violations of this law should be kept confidential to protect officials from abuse that could ruin a good reputation.*

2. No meeting or proceeding of the Ethics Board concerning misconduct, nonfeasance, or neglect in 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. *Comment: The Ethics Commission indicated that most only organizational, educational and administrative function are open to the public. Discussions about advice being sought by officials and complaints must be conducted in private.*

§ 217. Miscellaneous Provisions.

1. No existing right or remedy shall be lost, impaired, or affected by reason of this law.
2. Nothing in this law 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 on 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.
3. If any provision of this law 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 law.

§ 218. Distribution and posting.

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

2. Within 90 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Montgomery Town Supervisor, in a form suitable for distribution, copies of those provisions of this law 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 Montgomery 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.

3. 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 law shall have no effect on the duty of compliance with this law or on the enforcement of its provisions.

Article 3. STATEMENT

The Town of Montgmeory Town Board hereby designates the form, as attached, as the official annual statement of financial disclosure for the purposes of fulfilling the requirements of this local law respectively, of the Town of Montgomery Ethics and Disclosure Law.

Article 4. APPROPRIATIONS AUTHORIZED

The Town Board may appropriate moneys from the general Town funds for the maintenance of and personal services to the Ethics Board established hereunder, but such Ethics Board may not commit the expenditure of Town moneys except within the appropriations provided herein.

Article 5 SEVERABILITY

If any clause, sentence, paragraph, word or section or part of this Ethics and Disclsoure Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Article 4. REPEAL

Any ordinance or local law inconsistent with the foregoing be and the same hereby is repealed.

Article 5. EFFECTIVE DATE

This local law shall take effect six months after filing in the office of the Secretary of State and in compliance with all applicable provisions of law.

ETHICS BOARD
3-year terms - Not to exceed 2 full terms
*Appointments - January 1 to December 31
Established September 20, 2007

Carollee Dinsmore	1st F-T	01/01/09 - 12/31/11 (6/11/09 TB Minutes)
Diane Sandbothe **	2nd F-T	01/01/11 - 12/31/13 (1/6/11 TB Minutes)
Joseph Keenan	1st F-T	01/01/10 - 12/31/12 (1/7/10 TB Minutes)
Cornelius Sullivan	2nd F-T	01/01/12 - 12/31/14 (1/5/12 TB Minutes)
Genaro Baez	1st F-T	01/01/10 - 12/31/12 (1/7/10 TB Minutes)

*As per Local Law 1 of 2007, the terms of office need to be staggered as such.

** Chairperson