

Amendment in the Nature of a Substitution – Item 167-15

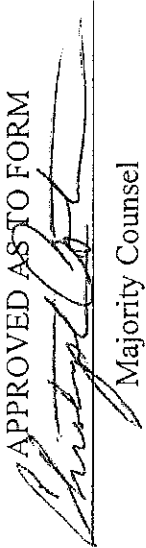
Submitted by the County Executive and introduced by Presiding Officer Norma L. Gonsalves

LOCAL LAW NO. 2 – 2015

A LOCAL LAW TO AMEND THE COUNTY CHARTER IN RELATION TO THE REGISTRATION OF LOBBYISTS.

Passed by the Nassau County Legislature on June 15, 2015
Voting: ayes: 18 nays: 0 Abstained: 0

Became a law on June 19, 2015 with the approval of the County Executive;

APPROVED AS TO FORM

Majority Counsel

WHEREAS, it is necessary and proper for this Legislature to enact a local law to provide for the registration and oversight of lobbying activities; and

WHEREAS, in the interest of full disclosure of lobbying activities in the County it is desirable to assign the County Attorney's Office to this task; now, therefore,

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Article XI of the County Government Law of Nassau County (the County Charter) is amended to read as follows:

ARTICLE XI COUNTY ATTORNEY

Title A

- Section 1101. County Attorney; employees.
- 1102. General powers and duties.

§ 1101. **County Attorney; employees.** There shall be a County Attorney who shall be an attorney admitted to practice law in this state. The County Attorney shall appoint such deputies, officers and employees of his office as may be provided by ordinance. Within the appropriation therefore and when authorized by the County Executive, the County Attorney may employ such special counsel as may be necessary.

§ 1102. **General powers and duties.** The County Attorney shall represent the county and all departments, officers, institutions and agencies thereof, in all litigation and proceedings, shall act as legal adviser of the county and all departments, institutions, officers, agencies, or offices thereof, draw contracts, ordinances, resolutions or local laws at the request of the County Executive and shall have such other powers and duties, not inconsistent with the terms of this act, as are now, or may hereafter be, conferred or imposed by law or ordinance. The County Attorney upon the request of the governing body of any city, town, village, school district, special district or public authority operating within the county and with which the county has a relationship, may act as the legal adviser or representative thereof on such terms as may be agreed upon between the County Executive and the said governing body.

Title B

Registration of Lobbyists

Section	1110	Definitions
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§1110. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Title shall be as follows:

(a) The term "lobbyist" shall mean every person or organization retained, employed or designated by any client to engage in lobbying before the County of Nassau, its agencies, boards, commissions, department heads, or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, any agencies, boards, commissions, department heads, or committees with respect to the zoning or the use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads, or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County, or the County Executive or the County Legislature. The term "lobbyist" shall not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or the State of New York, when discharging his or her official duties.

- (b) The term "client" shall mean every person or organization who retains, employs or designates any person or organization to carry on lobbying activities on behalf of such client.
- (c) (1) The term "lobbying" or "lobbying activities" shall mean any attempt to influence:
- (i) any determination made by the Nassau County Legislature or any member thereof with respect to the introduction, passage, defeat, or substance of any local legislation or resolution;
 - (ii) any determination made by the County Executive to support, oppose, approve, or disapprove any local legislation or resolution, whether or not such legislation or resolution has been introduced in the County Legislature;
 - (iii) any determination made by an elected county official or an officer or employee of the county with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including but not limited to the preparation of requests for proposals, or the solicitation, award or administration of a contract, or with respect the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies;
 - (iv) any determination made by the County Executive, the County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads, or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, any agencies, boards, commissions, department heads, or committees with respect to the zoning or the use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads, or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County;
 - (v) any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent;
 - (vi) the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law;
 - (vii) the decision to hold, or the timing or outcome of, any rate making proceeding before an agency;
 - (viii) the agenda or any determination of a board or commission;
 - (ix) any determination regarding the calendaring or scope of any legislature oversight hearing;
 - (x) the issuance, repeal, modification or substance of a county executive order; or
 - (xi) any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

(2) The term "lobbying" or "lobbying activities" shall not include:

(i) Persons engaged in drafting legislation, rules, regulations or rates; persons advising clients and rendering opinions on proposed legislation, rules, regulations or rates, where such professional services are not otherwise connected with legislative or executive action on such legislation or administrative action on such rules, regulations or rates;

(ii) Newspapers and other periodicals and radio and television stations and owners and employees thereof, provided that their activities in connection with proposed legislation, rules, regulations or rates are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

(iii) Persons who participate as witnesses, attorneys or other representatives in public rule-making or rate-making proceedings of a County agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

(iv) Persons who attempt to influence a County agency in an adjudicatory proceeding, as defined by § 102 of the New York State Administrative Procedure Act; and

(d) The term "organization" shall include any corporation, company, foundation, association, labor organization, firm, partnership, society, or joint stock company.

(e) The terms "expenditure" or "expense" shall mean any expenditures incurred by or reimbursed to the lobbyist for lobbying, but shall not include contributions reportable pursuant to Article 14 of the New York Election Law.

§1111. Statement of registration.

(a) (1) Every lobbyist shall annually file with the County Attorney, on forms prescribed by the County Attorney, a statement of registration for each calendar year, provided, however, that the filing of such statement of registration shall not be required of any lobbyist who in any year does not earn or incur an amount in excess of one thousand dollars reportable compensation and expenses for the purposes of lobbying, or is an officer, director, trustee or employee of any public corporation when acting in such official capacity. Nothing herein shall be construed to relieve any public corporation of the obligation to file such statements and reports as required by this title.

(2) Such filing shall be completed on or before January fifteenth by those persons who have been retained, employed or designated as lobbyists on or before December thirty-first of the previous calendar year who reasonably anticipate that in the coming year they will earn or incur combined reportable compensation and expenses in an amount in excess of one thousand dollars. For those lobbyists retained, employed or designated after December thirty-first, and for those lobbyists who, subsequent to their retainer, employment or designation, reasonably anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter.

(b) Such statements of registration shall be kept in electronic form and shall be available for public inspection on the County website.

(c) Such statement of registration shall contain:

(1) The name, address and telephone number of the lobbyist.

(2) The name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated.

(3) If such lobbyist is retained or employed pursuant to a written agreement of retainer or employment, a copy of such shall also be attached, and if such retainer or employment is oral, a written statement of the substance thereof shall be included.

(4) A written authorization from the client by whom the lobbyist is authorized to lobby, unless such lobbyist has filed a written agreement of retainer or employment.

(5) A description of the general subject or subjects on which the lobbyist is lobbying or expects to lobby.

(6) The name of the person, organization or legislative body before whom or which the lobbyist is lobbying or expects to lobby.

(d) Whenever there is a change in the information filed by the lobbyist in the original statement of registration, other than a change to information submitted pursuant to paragraphs five and six of subdivision (c) of this section, an amended statement shall be submitted to the County Attorney on forms prescribed by the County Attorney within ten days after such change occurs.

(e) Each statement of registration filed annually by each lobbyist shall be accompanied by a registration fee of two hundred dollars. Any change to a statement of registration shall be accompanied by a fee of fifty dollars.

§1112. Termination of retainer, employment, or designation.

Upon the termination of a lobbyist's retainer, employment or designation, such lobbyist and the client on whose behalf such service has been rendered shall both give written notice to the County Attorney within thirty days after the lobbyist ceases the activity that required such lobbyist to file a statement of registration; however, such lobbyist shall nevertheless comply with the reporting requirements of section 1113 of this title and the reporting requirements for the last periodic reporting period up to the date such activity has ceased as required by this title and both such parties shall each file the annual report required by section 1114 of this title.

§1113. Periodic Reporting.

(a) (1) Any lobbyist required to file a statement of registration pursuant to section 1111 of this title who in any lobbying year earns or incurs combined reportable compensation and expenses in an amount in excess of one thousand dollars as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the County Attorney periodic reports, on forms prescribed by the County Attorney, by the fifteenth day next succeeding the end of the reporting period on which the cumulative total for such lobbying year equaled such sum. Such reporting periods shall be the period from January 1 to March 31, April 1 to May 31, June 1 to August 31 and September 1 to December 31.

(2) Any lobbyist making a report pursuant to paragraph one of this subdivision shall thereafter file with the County Attorney, on forms prescribed by the County Attorney, a periodic report for each reporting period that such person earns or incurs combined reportable compensation and expenses in an amount in excess of one hundred dollars for the purposes of lobbying during such reporting period. Such report shall be filed not later than the fifteenth day next succeeding the end of such reporting period and shall include the amounts so earned or incurred during such reporting period and the cumulative total during the lobbying year.

(b) Such periodic report shall contain:

(1) the name, address and telephone number of the lobbyist;

(2) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;

(3) a description of the subject or subjects on which the lobbyist has lobbied, also including information sufficient to identify the local law or resolution, procurement, real property, rule, rate making proceeding, determination of a board or commission, or other matter on which the lobbyist has lobbied;

(4) the names of the persons, organizations and/or agencies before which the lobbyist has lobbied;

(5) (i) the compensation paid or owed to the lobbyist, and any expenses or incurred by the lobbyist for the purpose of lobbying.

(ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate of fifty dollars or less and if more than fifty dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than fifty dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purpose of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist;

(B) expenses, not in excess of one hundred dollars in any one calendar year, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for compensation other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars shall be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by the lobbyist for a period of three years.

(vi) the expenses reimbursed by the client.

(c) Notwithstanding any inconsistent provision of this section, where a lobbyist required to file a statement of registration pursuant to section 1111 of this title is not required to file a periodic

report pursuant to subdivision (a) or (b) of this section because such lobbyist has not earned or incurred compensation and expenses as therein specified, such lobbyist shall file a periodic report stating that such lobbyist has not earned or incurred such compensation and expenses by the fifteenth day next succeeding the end of the reporting period.

(d) Whenever there is a change in the information filed by a lobbyist in a report filed pursuant to this section, an amended report shall be submitted to the County Attorney on forms prescribed by the County Attorney.

(e) (1) All such periodic reports shall be subject to review by the County Attorney.

(2) Such periodic reports shall be kept in electronic form and shall be available for public inspection on the County website.

§1114. Annual reports.

(a) Annual reports shall be filed by:

(1) every lobbyist required to file a statement of registration pursuant to section 1111 of this title;

(2) any client retaining, employing or designating a lobbyist or lobbyists, if during the year such client owed an amount in excess of five thousand dollars or, if the lobbyist is an architect or engineer, or an architecture or engineering firm, ten thousand dollars, of combined reportable compensation and expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.

(b) Such report pursuant to paragraph one of subdivision (a) of this section shall be filed with the County Attorney, on forms prescribed by the County Attorney, by the fifteenth day of January following the year for which such report is made and shall contain on an annual cumulative basis all the information required in periodic reports by section 1113 of this title;

(c) Such report pursuant to paragraph two of subdivision (a) of this section shall be filed with the County Attorney on forms prescribed by the County Attorney by the fifteenth day of January next following the year for which such report is made and shall contain:

(1) the name, address and telephone number of the client;

(2) the name, address and telephone number of each lobbyist retained, employed or designated by such client;

(3) a description of the subject or subjects on which each lobbyist retained, employed or designated by such client has lobbied, including information sufficient to identify the local law or resolution, procurement, real property, rule, rate making proceeding, determination of a board or commission, or other matter on which each lobbyist retained, employed or designated by such client has lobbied;

(4) the names of the persons and agencies before which such lobbyist has lobbied;

(5) (i) the compensation earned by such lobbyist, and any other expenses paid or incurred by such client for the purpose of lobbying.

(ii) any expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate of fifty dollars or less and if more than fifty dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expenses are more than fifty dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purposes of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist and client;

(B) expenses, not in excess of one hundred dollars, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars must be paid by check or substantiated by receipts.

(d) (1) All such annual reports shall be subject to review by the County Attorney.

(2) Such annual reports shall be kept in electronic form and shall be available for public inspection on the County website.

§1115. Contingent retainer.

No client shall retain or employ any lobbyist for compensation, the rate or amount of which compensation in whole or part is contingent or dependent upon legislative, executive or administrative action where efforts by a lobbyist to influence such action are subject to the jurisdiction of the County Attorney, and no person shall accept such a retainer or employment.

§1116. Retention of records.

Every person to whom this title is applicable shall keep for at least three years a detailed and exact account of:

(a) all compensation of any amount or value whatsoever;

(b) the name and address of every person paying or promising to pay compensation of fifty dollars or more and the date thereof;

(c) all expenditures made by or on behalf of the client; and

(d) the name and address of every person to whom any item of expenditure exceeding fifty dollars is made, the date thereof and receipted bill for such expenditure.

§1117. Certification.

All statements and reports required under this title shall contain the following declaration: "I certify that all statements made on this statement are true, correct and complete to the best of my knowledge and belief and I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render such statement null and void."

§1118. Penalties.

(a) Any person or organization who or which knowingly and willfully violates any provision of this title shall be guilty of a Class A misdemeanor punishable by a fine not to exceed five thousand dollars and/or a term of imprisonment not to exceed one year. For the purposes of this subsection, the chief administrative officer of any organization required to file a statement or report shall be the person responsible for making and filing such statement or report unless some other person, prior to the due date thereof, has been duly designated to make and file such statement or report.

(b) A person or organization who fails to file a statement or report within the time required for the filing of such report shall be subject to a civil penalty, in an amount not to exceed five thousand dollars, to be assessed by the County Attorney. Such assessment may only be imposed after written notice of such failure and the expiration of a reasonable period within which to cure the failure.

(c) Following a failure to make and file a statement or report required by this title, the County Attorney shall notify the person or organization of such fact by certified mail, and that such filing must be made within 15 days of the date of such notice. The failure to file any statement or report within the time provided for in this subsection shall constitute a Class A misdemeanor.

(d) Any person or organization who violates any provision of this section not punishable under subdivisions (a), (b) or (c) of this section shall be subject to a civil penalty, in an amount not to exceed five thousand dollars, to be assessed by the County Attorney.

§1119. Filing with Clerk of the Legislature.

Any lobbyist filing any form with the County Attorney pursuant to this title shall file a copy with the Clerk of the Legislature.

§1120. Rules and Regulations.

The County Attorney is hereby authorized, empowered and directed to promulgate and issue such rules and regulations as it may deem necessary to implement and carry out this title.

§1121. New York State Registration Requirements

Any lobbyist that is required to file a Statement of Registration pursuant to Section 1-e of Chapter 32 of the New York State Legislative Law shall be deemed to have complied with the registration and reporting requirements of this Local Law provided that the lobbyist files such Statements of Registration with the County Attorney and Clerk of the Legislature.

§1122. Vendor Disclosure

Any person or organization, prior to executing any contract with the County of Nassau, shall cause to be filed with the County Attorney the following form:

COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: _____
Address: _____
City, State and Zip Code: _____
2. Entity's Vendor Identification Number: _____
3. Type of Business: Public Corp Partnership Joint Venture
 Ltd. Liability Co Closely Held Corp Other (specify)

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation, include a copy of the 10K in lieu of completing this section.

6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company that may take part in the performance of this contract. Such disclosure shall be updated to include affiliated or subsidiary companies not previously disclosed that participate in the performance of the contract.

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

(a) Name, title, business address and telephone number of lobbyist(s):

(b) Describe lobbying activity of each lobbyist. See below for a complete description of lobbying activities.

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated: _____

Signed: _____

Print Name: _____

Title: _____

The term lobbying shall mean any attempt to influence: any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including by not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use,

development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

§1123. Emergency Contracts.

Notwithstanding the terms of this local law, for contracts executed pursuant to the County Government Law of Nassau County Section 103(8)(b) or in the case of an emergency as described by the County Government Law of Nassau County Section 2206, all required disclosures pursuant to Section 1122 of this local law shall be made prior to the ratification of any such contract by the Rules Committee of the Nassau County Legislature.

Section 3. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 4. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a “Type II” Action within the meaning of Section 617.5(c)(20) and

(27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

Section 5. This local law shall take effect immediately.

APPROVED



County Executive

DATE June 19, 2015