

Establishing A Policy To Require Prior Notice Of The Use Of Recording Devices By Officials And Staff Of The County Of Ulster

Referred to: The Laws and Rules, Governmental Services Committee (Chairman Roberts and Legislators Donaldson, Haynes, Heppner, and James Maloney)

Legislator Kathy Nolan and Legislator Kenneth Ronk, Jr. offer the following:

WHEREAS, pursuant to 18 United States Code § 2511(2)(d) and New York Penal Law § 250.05 telephonic and in-person communications may be recorded provided at least one participant in the communication consents to the recording; and

WHEREAS, except as otherwise governed by New York Open Meetings Law, the Ulster County Legislature hereby determines that the public benefit is better served if notice of the use of recording devices by all Ulster County Elected Officials and personnel is given to all parties when recording devices of any kind are being used in any communication, including but not limited to telephonic, online, cellular, and in-person communication, with the exception of correspondence in writing; now, therefore be it

RESOLVED, that all Elected Officials and personnel of the County of Ulster are hereby prohibited from recording private communication transmitted by telephone, telegraph, radio or other device between two or more individuals by any County owned device, electronic, cellular or otherwise designed to record and/or transmit said communication, unless prior notice is provided to all the participants in the communication; and, be it further

RESOLVED, notwithstanding any other section herein, this policy shall not apply to recordings by law enforcement officials, the District Attorney and personnel of said office, and the Public Defender and personnel of said office during the course of their official duties; and, be it further

RESOLVED, notwithstanding any other section herein, this policy shall not apply to recordings by law enforcement officials during the course of their official duties; and, be it further resolved

RESOLVED, notwithstanding any other section herein, communications or conversations of an emergency nature, such as reporting of a fire, medical emergency, crime or disaster may be recorded with the consent of one party to the conversation; and, be it further

RESOLVED, notwithstanding any other section herein, all public meetings and events conducted by Ulster County Elected Officials and personnel shall be presumed to be open to recording and shall be exempt from specific notification requirements; and, be it further

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RESOLVED, where prior notice to all participants is required pursuant to this Ulster County policy, notice shall be considered satisfactory whenever one participant has announced to all other participants engaged in the communication or conversation, in any reasonably effective manner, that such communication is about to be recorded or transmitted and, in the event of a recording, that such announcement is also recorded; and, be it further

RESOLVED, that for purposes of this Ulster County Policy the following definition(s) are applicable:

“Elected Official”: Ulster County Executive, Ulster County Comptroller, Ulster County Legislators, Ulster County Sheriff, Ulster County District Attorney, Ulster County Clerk.

and be it further,

RESOLVED, that this Resolution shall take effect immediately,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 12 NOES: 8
(Noes: Legislators Archer, Delaune, Donaldson,
Greene, Heppner, Joseph Maloney, Petit, and
Rodriguez)
(Absent: Legislators Bartels, Collins, and Eckert)

Passed Committee: Laws and Rules, Governmental Services as amended on
November 19, 2018

FINANCIAL IMPACT:
NONE

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STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 20th Day of November in the year Two Thousand and Eighteen, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 17th Day of October in the year Two Thousand and Eighteen.

/s/ Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

Submitted to the County Executive this
21st Day of November, 2018.

Approved by the County Executive this
29th Day of November, 2018.

/s/ Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

/s/ Michael P. Hein
Michael P. Hein, County Executive