

**ENROLLED ORDINANCE  
NO. 2016- 03**

Introduced by Commissioner Vosburg, supported by Commissioner Carabelli.

**AN ORDINANCE TO AMEND AND RESTATE ORDINANCE NO. 2011-10 ENTITLED  
“AN ORDINANCE TO ESTABLISH A STANDARD OF ETHICS FOR ALL PUBLIC  
SERVANTS OF MACOMB COUNTY PURSUANT TO SECTION 2.2 OF THE HOME  
RULE CHARTER OF MACOMB COUNTY, MICHIGAN”**

**IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF MACOMB:**

**Section 1. Amendment.** Ordinance No. 2011-10 entitled “An Ordinance to Establish a Standard of Ethics for All Public Servants of Macomb County Pursuant to Section 2.2 of the Home Rule Charter of Macomb County, Michigan” is amended in its entirety to read as follows:

**AN ORDINANCE TO ESTABLISH AND TO PROVIDE FOR ENFORCEMENT AND  
PENALTIES FOR VIOLATION OF A STANDARD OF ETHICS FOR PUBLIC  
SERVANTS OF AND THOSE CONTRACTING WITH MACOMB COUNTY**

**ARTICLE 1  
PURPOSE AND DEFINITIONS**

**Sec. 1.1. Short Title.**

This ordinance may be referred to as the “Ethics Ordinance.”

**Sec. 1.2. Purpose and Applicability.**

- A. Macomb County residents and those conducting business in or with Macomb County are entitled to fair, ethical and accountable government. Public Servants hold positions of public trust and their actions must remain above reproach.
- B. The purpose of this ordinance is to establish ethical standards of conduct for Macomb County Public Servants in accordance with sections 2.2 and 2.3 of the Charter.
- C. Unless otherwise provided by applicable law, this ordinance applies to all Public Servants and some of its provisions apply to those who previously served as Public Servants and to individuals and entities contracting with the County.
- D. The requirements of this ordinance are subject to state and federal laws, rules and regulations.
  - 1. If a state or federal law, rule or regulation conflicts with a provision of this ordinance and that state or federal law, rule or regulation states that it preempts or has been held to preempt any provision in this ordinance, that conflicting state or federal law, rule or regulation shall control.
  - 2. When a requirement of this ordinance provides a higher standard of conduct than a state or federal law, rule or regulation, this ordinance shall control unless the state or federal law, rule or regulation makes it illegal for the higher standard of conduct in this ordinance to apply.
  - 3. Without limiting the generality of the subsections D.1 and D.2, this ordinance shall not modify the requirements of Contracts of Public Servants with Public Entities Act, 1968 PA 317, MCL 15.321 to 15.330, governing the solicitation by and participation in government contracts by Public Servants.

### Sec. 1.3. Definitions.

The following definitions shall apply to words and phrases used in this ordinance.

A. *Appointee* means a person appointed to a compensated or uncompensated position in County government that is not subject to a collective bargaining agreement, who is not elected to or holding office or holding an office that is subject to an election and whose appointment is subject to the approval of the Board of Commissioners or who is exempt from such approval under the Charter.

B. *Charter* means the Home Rule Charter of Macomb County that took effect on January 1, 2011, as it may from time-to-time be amended.

C. *Close Relative* means a person's (i) spouse, (ii) biological, adoptive or foster parent, child, step-parent or step-child, (iii) biological, adoptive or foster brother or sister, step-brother or step-sister, or half-brother or half-sister (iv) anyone who resides with the person, and (v) anyone the person declares as a dependent on the person's federal income tax return.

D. *Commission* means the County Board of Commissioners created by the Charter.

E. *Commission Chair* means the duly selected chairperson of the Commission or that person's designee(s).

F. *Commissioner* means a member of the Commission.

G. *Confidential Information* means information obtained by a Public Servant by reason of his or her position that is not available to members of the public pursuant to the Michigan Freedom of Information Act or other applicable laws, regulations, or procedures.

H. *Conflict of Interest* means a situation where an interest of a Public Servant, including a partisan political interest, is or may be in actual or apparent conflict with an actual or apparent interest of the County and includes the following situations:

1. A decision to be made by or a contract approved or signed by the Public Servant could result in private gain for the Public Servant or a Relative of the Public Servant.

2. A decision to be made by or a contract approved or signed by a body on which the Public Servant serves could result in private gain for the Public Servant or a Relative of the Public Servant.

3. A decision to be made by or a contract approved or signed by a subordinate of the Public Servant could result in private gain for the Public Servant or a Relative of the Public Servant.

4. A decision to be made by or a contract approved or signed by any appointee(s) of the Public Servant or the body on which the Public Servant serves could result in private gain for the Public Servant or a Relative of the Public Servant.

5. A decision to be made by the Public Servant or a contract approved or signed by the Public Servant could result in private gain for (a) anyone the Public Servant represents in any professional capacity, such as, for example and not as limitation, an attorney, accountant, architect, or engineer, (b) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, (c) an entity in which the Public Servant or a Close Relative of the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or (d) an entity in which the Public Servant or a Close Relative of the Public Servant either owns stock or another interest totaling \$50,000 or more in value. Subsection (a) does not apply to an attorney, accountant or other professional whose client is only a lender on a project. Subsection (d) does not apply to stock traded on a public exchange or to situations where the interest is held by a publicly traded mutual fund.

6. A decision to be made by or a contract approved or signed by a body on which the Public Servant serves could result in private gain for (a) anyone the Public Servant represents in

any professional capacity, such as, for example and not as limitation, an attorney, accountant, architect, or engineer, (b) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, (c) an entity in which the Public Servant or a Close Relative of the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or (d) an entity in which the Public Servant or a Close Relative of the Public Servant either owns stock or another interest totaling \$50,000 or more in value. Subsection (a) does not apply to an attorney, accountant or other professional whose client is only a lender on a project. Subsection (d) does not apply to stock traded on a public exchange or to situations where the interest is held by a publicly traded mutual fund.

7. A decision to be made by or a contract approved or signed by a subordinate of the Public Servant could result in private gain for (a) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, (b) an entity in which the Public Servant or a Close Relative of the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or (c) an entity in which the Public Servant or a Close Relative of the Public Servant either owns stock or another interest totaling \$50,000 or more in value. Subsection (c) does not apply to stock traded on a public exchange or to situations where the interest is held by a publicly traded mutual fund.

8. A decision to be made by or a contract approved or signed by any appointee(s) of the Public Servant could result in private gain for (a) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, (b) an entity in which the Public Servant or a Close Relative of the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or (c) an entity in which the Public Servant or a Close Relative of the Public Servant either owns stock or another interest totaling \$50,000 or more in value. Subsection (c) does not apply to stock traded on a public exchange or to situations where the interest is held by a publicly traded mutual fund.

I. *County Agency* means a department, office, board, commission, or other unit of County government, whether created by Charter, ordinance or law.

J. *County-Wide Elected Official* means the person holding the office of County Executive, Public Works Commissioner, Clerk/Register of Deeds, Treasurer, Prosecuting Attorney, or Sheriff.

K. *Department Head* means the administrative head of a County Agency regardless of the title of the position.

L. *Employee* means a person employed in a position of County government whether on a full-time or part-time basis.

M. *Entity* means an association, business corporation, general partnership, governmental agency or unit, limited liability company, limited partnership, non-profit corporation, individual's assumed name, or any other legal person or identity other than an individual.

N. *Executive* means the person holding the office of County Executive as provided in the Charter or that person's designee(s).

O. *Gift* means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements.

P. *Inter-governmental gift* means, for the purposes of this ordinance, any gift given to a Public Servant from a (i) federal, state, local or school district elected official, (ii) a federal, state, local or school district appointed official, or (iii) a federal, state or local government employee who is not a Public Servant.

Q. *Intra-governmental gift* means, for the purpose of this ordinance, any gift given to a Public Servant from another Public Servant of Macomb County.

R. *Private gain* means any direct financial benefit that is different than any financial benefit members of the general public or a significant group of the general public would gain in similar circumstances.

S. *Prohibited Source* means anyone doing business with, who is regulated by, who is seeking business from, or seeking any action from the County or any officer, office, agency or body of the County.

T. *Public Servant* means a County employee, County-Wide Elected Official, County Commissioner, or County appointee.

U. *Publicly disclose* means to disclose in such a manner as to ensure all involved in considering the decision, action or contract are aware of the conflict of interest or other situation requiring disclosure under this ordinance (i) the nature of a conflict of interest or other situation requiring disclosure under this ordinance and (ii) the efforts the Public Servant to comply with this ordinance. Public disclosure shall, at a minimum, include the following:

1. In situations where either the disclosing Public Servant or a subordinate of the disclosing Public Servant, would otherwise consider the decision, action or contract on behalf of the County, the disclosing Public Servant shall (a) make the required disclosure in writing to the disclosing Public Servant's immediate subordinates and to a superior to the disclosing Public Servant and (b) direct that the decision, action or contract be considered by the disclosing Public Servant's superior or the designee of the Public Servant's superior.

2. In situations where the disclosing Public Servant is a member of a County body, that Public Servant shall, during a public meeting of that body, (a) publicly disclose to the body the situation requiring disclosure before that County body considers the decision, action or contract and (b) ask that the disclosure be made part of the minutes of that body's meeting.

3. In situations where the decision, action or contract is to be considered by any appointee whose appointment is made or approved by the disclosing Public Servant or by the body on which the Public Servant serves, the Public Servant shall make disclosure in writing (a) to that appointee, (b) if there is one, to that appointee's superior, and, (c) if there is one, to the County body on which the Public Servant serves.

V. *Relative* means (i) a person's Close Relative, (ii) a person's biological, adoptive or foster grandparent, (iii) a Close Relative of a person's spouse, or of anyone over the age of 18 residing with a person, or (iv) a biological, adoptive or foster grandparent of a person

## **ARTICLE 2**

### **STANDARDS OF CONDUCT**

#### **Sec. 2.1. General Standards of Conduct.**

Public Servants shall observe the highest standards of ethical conduct and shall do all of the following.

A. Comply with federal and state constitutions, laws, rules and regulations and with decisions and orders of federal and state agencies, officials and courts of competent jurisdiction that are applicable to the Public Servant's office, any County body on which the Public Servant serves, and any meeting the Public Servant attends.

B. Comply with all County ordinances and policies.

C. Be independent, impartial, and fair in their judgments and actions. Public Servants shall not display any favor for or disfavor of any individual, group or entity in the discharge of their duties. Public Servants shall treat all persons they encounter with courtesy and respect.

D. Use their public office for the public good, not for private gain.

E. Respect and act in accordance with County processes and procedures. This does not preclude advocating for changes of County processes and procedures but requires compliance with them unless and until they are changed.

F. Conduct public business openly, as provided by law.

G. Cooperate fully with any lawful request of the Ethics Board, the Commission, and the Office of County Executive for information or assistance. A lawful request is (i) a request required or allowed to be made by the Charter or other applicable law, rule, regulation or ordinance or (ii) a request that when made, under the Charter or applicable law, rule, regulation or ordinance, requires a response or the disclosure of the requested information.

### **Sec. 2.2. Conflicts of Interest**

A. A Public Servant shall not make any decision, participate in making any decision or take any action, influence any decision or action, or attempt to influence any decision or action, in which the Public Servant has a conflict of interest.

B. A Public Servant shall not approve any contract, participate in approving any contract, influence the approval of a contract, attempt to influence the approval of any contract, or sign any contract in which the Public Servant has a conflict of interest.

C. A Public Servant shall publicly disclose the Public Servant's conflict of interest before any decision, action or contract in which the Public Servant has a conflict of interest is considered by (i) any other Public Servant who is a subordinate of or a superior to the Public Servant with the conflict of interest, (ii) any County body on which the Public Servant with the conflict of interest serves, (iii) any appointee whose appointment is made or approved by the Public Servant who has the conflict of interest or the body on which that Public Servant serves. That disclosure shall either be in writing or otherwise made part of the official written record of the office in which or body on which the disclosing Public Servant serves. It shall disclose the nature of the conflict of interest and the actions taken by the Public Servant to comply with this ordinance.

### **Sec. 2.3. Other Personal Interests.**

A. A Public Servant shall not engage in a business transaction in which the Public Servant or a Relative of the Public Servant may recognize a private gain from the Public Servant's County position.

B. A Public Servant shall not participate on behalf of another individual or entity who/which the Public Servant or a Close Relative of the Public Servant serves as an employee, officer, director, member, or other agent in (i) the negotiation, approval or execution of contracts with, (ii) issuance of approvals to, (iii) providing goods or services to, or (iv) using property of the County, a County Agency or another Public Servant.

C. A Public Servant shall not accept from any individual or entity other than the County, any payment, good, service, employment or promise of employment, or other thing of value in exchange for (i) taking any action, (ii) making any decision, (iii) giving any approval, (iv) issuing any decision, (v) voting for or against, (vi) issuing any permit, (vii) making any payment, (viii) making any statement, (ix) making or approving an appointment, or (x) undertaking any other effort as a Public Servant for the benefit of any individual or entity.

D. A Public Servant shall not knowingly cause, allow, enable or, without objecting, endure any individual or entity other than the County, to make any payment or to provide any good, service, employment or promise of employment, or other thing of value to a Relative of the Public Servant in exchange for (i) taking any action, (ii) making any decision, (iii) giving any approval, (iv) issuing any decision, (v) voting for or against, (vi) issuing any permit, (vii) making any payment, (viii) making any statement, (ix) making or approving an appointment, or (x) undertaking any other effort as a Public Servant for the benefit of any individual or entity.

#### **Sec. 2.4. Information, Representations and Opinions**

- A. A Public Servant shall not represent the Public Servant's personal opinion or position as that of the County, a County Agency or another Public Servant.
1. This provision is not intended to and shall not be interpreted to preclude the Executive from representing the Executive's office or the County in relations with other governments, the media or the general public.
  2. This provision is also not intended to and shall not be interpreted to preclude the Chair of the Commission or the Chair of another County body from representing the Commission's or other body in relations with other governments, the media or the general public.
  3. This provision is also not intended to and shall not be interpreted to preclude a County-Wide Elected Official from representing the County-Wide Elected Official's office or County Agency in relations with other governments, the media or the general public.
- B. A Public Servant shall not disclose any Confidential Information before it is authorized for release to the general public.
- C. A Public Servant shall not use Confidential Information for private gain.
- D. A Public Servant shall not knowingly disclose to any unauthorized person information provided, obtained or discussed in closed or executive sessions of the Board of Commissioners or other County body in advance of the time prescribed for its authorized release to the public.

#### **Sec. 2.5. Gifts and Gratuities**

Except as permitted by this ordinance, a Public Servant shall not intentionally solicit or accept any gift from any Prohibited Source, including intra-governmental gift, intergovernmental gift, or any gift which is otherwise prohibited by law or ordinance.

- A. This prohibition shall not apply to:
1. Opportunities, benefits, and services that are available on the same conditions as for the general public.
  2. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials.
  3. A gift received from a Relative of the Public Servant, provided that the Relative is not acting as a third party's intermediary or an agent in an attempt to circumvent this ordinance.
  4. Acceptance of unsolicited advertising or promotional materials and other items of nominal intrinsic value.
  5. Food or refreshments not exceeding \$75.00 in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this ordinance, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
  6. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of a Public Servant), if the benefits have not been offered or enhanced because of the Public Servant's official position or employment and are customarily provided to others in similar circumstances.
  7. If previously approved as may be required in this subsection 2.5.A.7, admission or registration fees, travel expenses, entertainment, lodging, meals or refreshments that are furnished to the Public Servant: (i) by the sponsor(s) of an event, appearance or ceremony which is related to official County business in connection with such an event, appearance or ceremony and to which one or more of the public are invited; or (ii) in connection with teaching, a speaking engagement or the provision of assistance to or service as a director,

officer, board member, or committee member of an organization or another governmental entity as long as the County does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity; and are customarily provided to others in similar circumstances. If the event, ceremony, meeting, or conference is outside the state of Michigan, the Public Servant shall obtain approval prior to attending from the public body on which the Public Servant serves or, if the Public Servant does not serve as a member of a Public Body, from the Commission.

8. Anything for which the Public Servant pays fair market value.

9. Any contribution that is lawfully made or event that is lawfully held under the Campaign Finance Laws of the State of Michigan.

10. Anything provided by an individual on the basis of a personal friendship unless the Public Servant has reason to believe that, under the circumstances, the gift was provided because of the Public Servant's official position or employment. In determining whether a gift is provided on the basis of personal friendship, the Public Servant shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the Public Servant, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the Public Servant the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the Public Servant the individual who gave the gift also at the same time gave the same or similar gifts to other Public Servants. If a friend of a Public Servant offers to pay or agrees to pay for the Public Servant's travel outside the state, the Public Servant shall obtain approval prior to that travel from the Public Body on which the Public Servant serves or, if the Public Servant does not serve as a member of a Public Body, from the Commission.

11. An inter-governmental gift unless that inter-governmental gift is prohibited by applicable law, rule or regulation.

12. Admission to a charitable or non-profit event or fundraiser when the Public Servant is attending as a representative of the County or for which other Public Servants or officials of other local governments have similarly been provided complimentary admission due to their status as governmental officials.

13. Admission to events honoring another Public Servant or governmental official when the Public Servant is attending as a representative of the County or for which other Public Servants or officials of other local governments have similarly been provided complimentary admission due to their status as governmental officials.

B. Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

C. A Public Servant does not violate this Section if the Public Servant promptly takes reasonable action to return the gift.

#### **Sec. 2.6. Incompatible Employment**

A. A Public Servant shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the Public Servant's official duties or when that employment may tend to impair Public Servant's independence of judgment or action in the performance of official duties.

1. Subject to state law, for one year after service as a Public Servant, a former Public Servant shall not lobby or appear before the Commission, another County body, a County Agency or another Public Servant in connection with any contract, improvement, issue, action, decision or other matter in which the former Public Servant was directly concerned, personally participated, actively considered or acquired knowledge while serving as a Public Servant. This provision shall not apply to a former Public Servant who holds another public office or is appointed to another governmental position.

2. Subject to state law, for a period of one year after service as a Public Servant, a former Public Servant shall not accept employment with any person or company that did business with the County during the former Public Servant's tenure if that former Public Servant was the sole decision maker in the award or management of that contract or the employment would require the sharing of confidential information.

3. For one year after service as a Public Servant, a former Public Servant shall not act or appear on behalf of, represent, undertake any duties or activities on behalf of the County, a County Agency or a Public Servant.

4. For one year after the former Public Servant's service as a Public Servant, no entity (i) for which the former Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, (ii) in which the former Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or (iii) has an interest totaling \$50,000 or more in value, act or appear on behalf of, represent, undertake any duties or activities on behalf of the County, a County Agency or a Public Servant. Subsection (iii) does not apply to stock traded on a public exchange or to situations where the interest is held by a publicly traded mutual fund.

5. County elected officials are prohibited from employment with Macomb County government for a period of one year after leaving elected office.

B. If it determines that allowing a former Public Servant to in serve a role otherwise prohibited by subsection A is in the best interests of the County, the Commission may by a resolution approved by 2/3 of the Commissioners elected and serving permit a former Public Servant to serve in such a role.

## **Sec 2.7. Nepotism**

A. It is the general policy of County not to discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital status.

B. Notwithstanding this policy, a County Agency will consider a Close Relative of a Public Servant for employment if the applicant possesses all the qualifications for employment. However, a Close Relative may not be hired, if the employment would:

1. Create either a direct or indirect supervisor/subordinate relationship between the Public Servant and a Close Relative of the Public Servant; or
2. Create an actual conflict of interest or the appearance of a conflict of interest.

C. The Department Head shall have the authority and responsibility for determining if such a potential for adverse impact does or does not exist.

D. When a Department Head has made a determination that such adverse impact does not exist, the determination shall be reviewed by the Human Resources Director prior to any employment decision being made. The Department Head shall submit a Nepotism Review Request form developed by the Human Resources Department to the Human Resources Director. Only Department Heads or their designees may sign the request form. The Human Resources Director will review the request form and concur (with or without restrictions) or not concur with the decision of the Department Head. If the Human Resources Director determines that an adverse impact would in fact occur, the Department Head, Executive and the Board of Ethics shall be notified in writing.

E. These criteria will also be considered when assigning, transferring, or promoting an employee.

F. Employees who marry or become members of the same household may continue employment as long as there is not:

1. A direct or indirect supervisor/subordinate relationship between the employees; or
2. An actual conflict of interest or the appearance of a conflict of interest.



G. If one of the above situations described in subsection F occur, the County shall attempt to find a suitable position within the County to which one of the affected employees may transfer. Exceptions may be made by the Executive in cases where there is an intermediate level of supervision between the Public Servant and the employee who is a Relative of the Public Servant. If accommodations of this nature are not feasible, the employees will first be permitted to determine which of them will resign. If no agreement between the employees can be reached, the County will decide which of the employees will be terminated.

H. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the County at the time of the election or appointment of an officer to elective County office.

### **Sec. 2.8. Inappropriate Use of County Time and Property for Political Activity**

A. The following constitute inappropriate use of County time or property:

1. Public Servants shall not engage in political campaign activities using County property or during time in which they are performing official duties.
2. Public Servants shall not solicit other Public Servants to work on political campaign activities using County property or during working hours on their behalf or on the behalf of another.
3. Public Servants shall not solicit campaign contributions from Department Heads or Employees under their supervision, coordination, direction, or control.
4. County-Wide Elected Officials and Commissioners shall not solicit campaign contributions from appointees, Department Heads or employees.

B. Nothing in this provision shall prevent any Public Servant, Department Head, or Employee from contributing to or otherwise supporting any political campaign during non-working hours.

C. Subsection A shall not apply where (i) a Public Servant's solicitations are inadvertently sent to another Public Servants or to a Department Head or employee, (ii) the solicitation includes an express disclaimer stating that it was not intended to be sent to such persons, and (iii) the Public Servant takes actions to correct the mailing list to avoid recurrence of such solicitation.

### **Sec. 2.9. Use of Public Assets for Private Purposes**

A Public Servant shall use County personnel resources, property and funds under the Public Servant's official care or control judiciously and solely in accordance with applicable federal, state and County laws, rules, regulations, ordinances and policies. All county vehicles shall be used in accordance with the County Vehicle policy.

## **ARTICLE 3 DISCLOSURE STATEMENT**

### **Sec. 3.1. Personal Disclosure for Public Servants**

Public Servants shall file a personal disclosure statement in a form provided by the County Personnel Department.

A. The personal disclosure statement shall disclose (i) the Public Servant's current employer(s), (ii) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, and (iii) an entity in which the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or has an interest totaling \$50,000 or more in value.

B. To the extent the Public Servant knows any of the following are located within, have a contract with, or have within the preceding 2 years sought a permit or other approval from the County, a County Agency, or a Public Servant, the personal disclosure statement shall disclose (i) the current employer(s) of the Public Servant's Close Relatives, (ii) an entity for which any Close Relative of the Public Servant serves as an officer, director, or, for a limited liability

company or partnership, as a member, and (iii) an entity in which the a Close Relative of the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or has an interest totaling \$50,000 or more in value.

C. Public Servants specified under this section shall file personal disclosure statements within 30 days of date of hire or taking office. Public Servants shall file an amended personal disclosure statement within 30 days after the information required by subsection A changes or, immediately, if they have a conflict of interest that was not disclosed in a previously filed disclosure statement.

D. The County Clerk shall post the submitted Personal Disclosure forms on the County's website. The Personal Disclosure form may be submitted electronically.

### **Sec. 3.2. Personal Disclosure for Vendors**

All existing County vendors and any vendor submitting a proposal, bid or contract for County consideration shall file a vendor disclosure statement in the form specified by the County Executive. At a minimum, the vendor disclosure statement shall include (a) the employment of a Close Relative of a Public Servant, (b) any interest of a Public Servant as a director, officer, partner, beneficiary, trustee member, employee or contractor in the entity, (c) any legal or beneficial ownership by a Public Servant of 10 % or more of the total outstanding stock of a corporation, limited liability company, partnership, sole proprietorship, or other business entity, and (d) any instances in the last five calendar years of failure to perform or otherwise deliver on the terms of a contract or agreement with the County, County Agency or Public Servant, including any suspensions or debarments.

## **ARTICLE 4 ENFORCEMENT, SANCTIONS, AND REMEDIES**

### **Sec. 4.1. Advice**

A Public Servant may seek an advisory opinion from the Ethics Board. If a Public Servant (i) does so prior to any violation of this ordinance, (ii) truthfully and fully discloses all information requested by the Ethics Board, and (iii) fully and completely complies with the Ethics Board's advice and direction, the Public Servant shall not be subject to sanctions as detailed in this Article. The Ethics Board shall render a written advisory opinion within 30 calendar days after a Public Servant's written request for an advisory opinion.

### **Sec. 4.2. Sanctions**

A. Sanctions shall not be construed to diminish or impair the rights of a Public Servant under any collective bargaining agreement, nor the County's obligation to comply with collective bargaining agreements.

B. State and federal statutes, including those cited in this ordinance and including, without limitation, those found at MCL 750.505 (misconduct in office), MCL 750.478 (neglect of duty), and MCL 15.321 *et seq.* (contracts of public servants with public entities), may address conduct described in this ordinance or impose requirements on Public Servants or candidates. Nothing in this ordinance is intended to affect the applicability of, to replace or to modify any such requirements or the penalties for their violations.

C. A violation of this ordinance shall be a municipal civil infraction that may be punished by a fine of up to \$500.00. Because the Public Servants subject to this ordinance all serve the County, because any candidate addressed by this ordinance would be a candidate for County office, and because any vendor addressed by this ordinance would be contracting with the County, and because the County seat is in Mt. Clemens, to the extent not otherwise prohibited by law any violation of this ordinance shall be deemed to have occurred in Mount Clemens. In addition, the District Court shall have jurisdiction to order other appropriate remedies and compliance as provided by applicable state law.

D. In addition to any other penalty, a Public Servant who violates this ordinance may be subject to appropriate personnel actions.

E. Any contract made in violation of this ordinance shall be void.

F. If any vendor, individual or entity who violates this ordinance or employs or uses as an agent anyone who violates this ordinance in connection with a County contract, that contract may be voided by the resolution of the Commission.

G. Any permit or other approval issued or obtained in violation of this ordinance shall be void.

## **ARTICLE 5** **BOARD OF ETHICS**

### **Sec. 5.1. Recognition and General Provisions**

A. Section 2.4 of the Charter establishes a Board of Ethics. The Board is charged with the enforcement of the ethics provisions of the Charter, this ordinance, and the law.

B. The Board shall adopt procedural rules consistent with the Charter and this Ordinance.

C. An individual or entity that is directly affected by a contract, decision or action alleged to have been in violation of this ordinance, or a resident of Macomb County, may file a complaint with the Ethics Board alleging one or more violations of this ordinance.

D. The Board shall provide a Public Servant who is the subject of an ethics complaint of a copy of the complaint within one business day after a complaint is filed. The Board shall also notify that Public Servant in writing at least 7 days before any meeting at which any complaint involving that Public Servant will be discussed or otherwise considered by the Board of the date, time and place of that meeting. The Board shall also notify in writing a Public Servant who is the subject of a complaint of all actions taken or decisions made with respect to that complaint within 1 business day after that action or decision. Written notification shall be by electronic mail and by mail sent via the United States Postal Service.

E. The Board shall normally finalize its decisions and actions on an ethics complaint within 60 days after the complaint is filed. For good cause or with the consent of the complainant and the Public Servant involved in a complaint, the Board may determine to extend the time for a decision or action on a given complaint for an additional 30 days.

F. The County Clerk/Register of Deeds shall serve as the Clerk of the Board and the original copies of all notices, agendas, minutes, complaints, decisions and other public records submitted to or created by the Board shall be retained in the office of the County Clerk/Register of Deeds. The County Clerk/Register of Deeds shall provide and post notices, agendas and minutes consistent with the County Clerk/Register of Deeds' practices for other County board and commissions,

### **Sec. 5.2. Meetings and Materials**

Because the Ethics Board and this ordinance are intended to enhance public accountability, all Ethics Board proceedings and documents shall be open to the public.

A. All meetings of the Board are subject to the Open Meetings Act, MCL 15.261 *et seq.*

B. The Open Meetings Act might permit some matters to be discussed or considered in closed sessions but the Open Meetings Act does not require a closed session for that discussion or consideration. Therefore, all sessions to consider or discuss any complaint or allegations concerning a Public Servant, to meet with a complainant or any respondent to a complaint, or to meet with any Public Servant other than legal counsel for the Board, shall be in a session open to the public.

C. Public notice of the Board's meetings shall be provided for in accordance with the provisions of the Open Meetings Act.

D. All complaints, all responses to complaints, and all other records of the Ethics Board, except legal opinions or information required by state or federal law to remain confidential, shall be records available for public inspection and copying.

E. The Board shall not delegate any of its duties or powers to any member or to any committee. Actions required or allowed to be taken by the Board shall be taken by the entire Board at an open meeting.

F. The Board shall notify in writing a complainant who filed an ethics complaint at least 7 days before any meeting at which that complaint will be discussed or otherwise considered by the Board of the date, time and place of that meeting. The Board shall also notify in writing a complainant who filed a complaint of all actions taken or decisions made with respect to that complaint within 1 business day after that action or decision. Written notification shall be by electronic mail and by mail sent via the United States Postal Service.

**Sec. 5.3. Annual Report**

The Board shall annually report to the Commission as required by section 2.8 of the Charter. That annual report shall, among any other information the Board determines to include, provide the information required by this section, including the number of complaints filed, the numbers of complaints for which probable cause was determined to exist, the numbers of complaints resulting in findings of violations, and the sanctions or remedies imposed. It shall also include a list of the names of persons and entities who the Board determined violated this ordinance, the nature of the violation and the resulting sanction or remedy.

**Section 2. Effective Date.** This ordinance shall take effect 20 days after its adoption and delivery to the County Executive.

  
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David Flynn, Board Chair

  
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Carmella Sabaugh, County Clerk

Adopted: August 18, 2016