

1 **ENROLLED ORDINANCE**

2
3 **No. 2014-734**

4
5
6 INTRODUCED BY COMMISSIONER(S):WORONCHAK and Co-sponsored by
7 Commissioner Varga
8

9 AN ORDINANCE TO AMEND CHAPTER 40 OF THE WAYNE COUNTY CODE OF
10 ORDINANCES TITLED "ETHICS ORDINANCE", TO CLARIFY THE ROLE OF THE
11 ETHICS BOARD CHAIRPERSON; TO AMEND THE PROCESS FOR REMOVING A BOARD
12 MEMBER; TO INDEMNIFY BOARD MEMBERS; TO EXTEND HEARING DEADLINES; TO
13 EXTEND RESPONSE TIME FOR ADVISORY OPINIONS; TO CLARIFY WHEN COMPLAINTS
14 MAY BE FILED; TO CLARIFY THE COMPLAINT PROCESS; TO ADDRESS PAYMENT OF
15 EXPENDITURES; TO CLARIFY AND REDEFINE INCOMPATIBLE EMPLOYMENT; TO
16 REDEFINE NOMINAL VALUE AND SUBSTANTIAL FINANCIAL INTEREST; TO REFORM
17 THE EXCEPTIONS TO GIFTS AND GRATUITIES; TO REQUIRE THE DEPARTMENT OF
18 PERSONNEL TO BE RESPONSIBLE FOR PERSONAL DISCLOSURE FORMS; AND TO
19 REVISE AND FURTHER DEFINE THE PENALTIES APPLICABLE UNDER THE
20 ORDINANCE.

21
22 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF WAYNE:

23
24 **SECTION 1: CODE OF ORDINANCES AMENDED**

25
26 Chapter 40 of the Wayne County Code of Ordinances is amended to read
27 as follows:

28
29 Sec. 40-1. Citation.

30 This chapter shall be cited as the ethics ordinance.

31
32 Sec. 40-2. Preamble.

33 As active participants in the delivery of important governmental
34 services, public servants are routinely called upon to make decisions.
35 Since decisions may be varied and difficult, the choices that are made
36 must yield good results while maintaining public interest values along
37 the way. As public servants make these difficult decisions, there is
38 an obligation to the citizens of Wayne County to maintain the highest
39 ethical standards. Everyone must maintain unquestionable standards of
40 integrity, truthfulness, honesty, fairness, and personal
41 responsibility in the performance of public functions. The proper
42 performance of public duties and functions requires that public
43 servants be independent, impartial, and responsible to the citizens of
44 Wayne County.
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1 This chapter is established to provide meaningful guidance to
2 employees, elected and appointed officials, and the members of
3 appointed boards and commissions. Nothing in this chapter is intended
4 to suggest that anyone should alter their personal beliefs. It is,
5 however, meant to assist all public servants in making the ethical
6 decisions that arise every day. Personal commitment to sound, ethical
7 decision making is essential to Wayne County's continued long term
8 success. The citizens' confidence in the integrity of Wayne County
9 government is a crucial factor in maintaining the public's trust and
10 each public servant is a personal steward of that integrity.

11
12 Sec. 40-3. Definitions.

13 For purpose of this chapter, words, terms and phrases shall have
14 the following meanings:

15
16 *Appointed official* means a public servant who is not elected, but
17 rather is appointed by an elected official and holds either a
18 compensated or uncompensated position.

19
20 *Complainant* means the individual filing a complaint.

21
22 *Confidential information* means information that is available to
23 or derived from a public servant only because of their status as a
24 public servant of the county and which is not a matter of public
25 knowledge. It does not include that general knowledge of and expertise
26 about county procedures, processes, practices and methods which a
27 public servant may gain from their work experience.

28
29 *Conflict of interest* means either a personal interest or a duty
30 or loyalty to a third party that competes with or is adverse to a
31 public servant's duty to the public interest in the exercise of
32 official duties or official actions.

33
34 *Contractor* means a person who, or which, enters into a contract
35 with the County of Wayne for the delivery of goods, services, or
36 construction.

37
38 *County business* means any business which, or person who, has
39 taken part in a county procurement directly or indirectly within the
40 previous 24 months, or which is expected to take part in a county
41 procurement within the next 12 months.

42
43 *County decision* means a recommendation, approval, or rejection of
44 a procurement, contract, resolution or ordinance, or any other
45 official action taken on behalf of the citizens of Wayne County.

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1 *Domestic partner* means unmarried couples, both same-sex and
2 opposite-sex, living together for at least six-months who meet the
3 following criteria: are not blood relatives, are at least 18 years of
4 age, are mentally competent, and not legally married or in any other
5 domestic partnership.

6 *Elected official* means the person holding office in Wayne County
7 of county executive, county commissioner, clerk, register of deeds,
8 prosecuting attorney, sheriff or treasurer.

9
10 *Employee* means a person employed by Wayne County whether on a
11 full-time or part-time basis.

12
13 *Expected to take part* means that some specific action has taken
14 place which manifests an intent to compete for a county procurement,
15 such as, the active solicitation of county work, a response to a bid
16 or request for proposals, or a written request to be included on the
17 bidders mailing list.

18
19 *Gratuity* means a payment, gift, loan, discount, advantage,
20 priority, entertainment, subscription, advance, deposit of money,
21 service, or anything of more than nominal value, present or promised,
22 unless consideration of substantially equal or greater value is
23 provided in exchange including, but not limited to, cash, food and
24 drink, travel, and lodging. A contribution to a campaign committee is
25 not deemed to be a gratuity.

26
27 *Lobbyist* means an individual who is either retained or employed
28 to induce or influence county decisions made by public servants.

29
30 *Nominal value* means not more than \$75.00 per person per
31 transaction.

32
33 *Official action or official duties* means a decision,
34 recommendation, approval, disapproval or other action or failure to
35 act which involves the use of discretionary authority on the part of
36 public servants.

37
38 *Person* means an individual, business, corporation, partnership,
39 sole proprietorship, joint stock company, joint venture, or any other
40 private legal entity.

41
42 *Personal gain* means any benefit which is accepted or received by
43 a public servant or is perceived by a reasonable person to be accepted
44 or received by a public servant as remuneration for the purpose of
45 improperly influencing an official action in a specific manner or for
46 refraining from the performance of an official action in a specific

1 manner, or as inducement for the public servant to act in favor of
2 some interest other than the public interest.

3
4 *Principal beneficiary* means a person who has a substantial
5 financial interest in any real property or business, or who holds a
6 key position in the business, such as, an officer, director, trustee,
7 partner, senior engineer, or sales manager.

8
9 *Procurement* means the buying, purchasing, renting, leasing or
10 otherwise acquiring of any of any supplies, services, goods, land,
11 construction, or any other purchase for the benefit of Wayne County.

12
13 *Public servant* means an employee or contractor, an elected
14 official or an appointed official of Wayne County, or a member of a
15 Wayne County board or commission, who to the extent provided by law,
16 is subject to this chapter.

17
18 *Relative* means people related to the individual as father,
19 mother, son, daughter, brother, sister, uncle, aunt, great aunt, great
20 uncle, first cousin, nephew, niece, husband, wife, grandfather,
21 grandmother, grandson, granddaughter, father-in-law, mother-in-law,
22 son-in-law, daughter-in-law, brother-in-law, sister-in-law,
23 stepfather, stepmother, stepson, stepdaughter, stepbrother,
24 stepsister, half brother, half sister, and including the grandfather
25 or grandmother of an individual's spouse. It shall also include a
26 former spouse or an individual with whom the public servant has had a
27 child in common.

28
29 *Respondent* means the individual against whom a complaint has been
30 filed.

31
32 *Substantial financial interest* means:

- 33 (1) Ownership of any interest or involvement in any relationship
34 from which, or as a result of which, a person within the
35 past year has received, or is presently or in the future
36 entitled to receive, more than \$10,000.00 per year, or its
37 equivalent; or
38 (2) Ownership of five percent or more of any property or
39 business; or
40 (3) Holding a key position in a business such as an officer,
41 director, trustee, partner, sales manager, or the like, or
42 holding any position of management, but not including
43 persons who serve without compensation on the board of
44 directors of a charitable organization, which has recognized
45 status under section 501(c)(3) of the Internal Revenue Code.

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1 *Take part directly or indirectly* means involvement through
2 negotiation, decision, approval, disapproval, recommendation,
3 preparation of any part of a purchase influencing the content of any
4 specification or procurement standard; rendering of advice,
5 investigation, or auditing; inspecting, managing, or accepting
6 performance; or in any other advisory capacity, but excluding clerical
7 support to these transactions.

8
9 Sec. 40-4. Standards of conduct.

10 (a) *Conflict of interest.*

11 (1) A public servant shall not participate in the making of any
12 county decision with respect to any matter in which they or
13 a relative or domestic partner has a substantial financial
14 interest which is distinguishable from that of the general
15 public.

16 (2) If a public servant has a conflict of interest in a
17 particular county procurement, they shall not take part
18 directly or indirectly in that procurement and shall
19 immediately notify their superior, if applicable.

20 (3) There is a conflict of interest whenever a public servant
21 knows or should reasonably be expected to know that they or
22 a relative or domestic partner:

23 a. Has a substantial financial interest in any
24 procurement; or

25 b. Is presently employed by any county business in a
26 managerial or other key position, or has become
27 employed by any county business in any kind of
28 position within the previous 12 months; or

29 c. Has negotiated or is negotiating for employment with
30 any county business, or with another party who is
31 likely to become a party to a contract, such as, a
32 prospective sub-contractor or consultant; or

33 d. Has a substantial financial interest in a business in
34 which one or more of the principal beneficiaries of
35 this county business also has a substantial financial
36 interest. A substantial financial interest in a
37 disclosed blind trust is not a conflict of interest.

38 (4) There is a conflict of interest if a public servant uses
39 confidential information for their personal gain or for the
40 personal gain of a relative or domestic partner, or others.

41 (5) This chapter shall not in any manner vary or change the
42 requirements of Contracts of Public Servants with Public
43 Entities Act, Public Act 317 of 1968, MCL 15.321 et seq.,
44 which governs the solicitation by and participation in
45 government contracts by public servants of the county and
46 preempts all local regulation of such conduct.

- 1 (b) *Gifts and gratuities.*
2 (1) Except as permitted by this chapter, a person shall not
3 offer, give, or agree to give any public servant nor shall a
4 public servant solicit, demand, accept, or agree to accept
5 from another person, a gratuity for themselves or for a
6 relative or domestic partner.
7 (2) Exceptions. Section 40-4(b)(1) is not applicable to the
8 following:
9 a. Opportunities, benefits, and services that are
10 available on the same conditions as for the general
11 public.
12 b. A gift received from a public servant's relative or
13 domestic partner, provided that the relative or
14 domestic partner is not acting as a third party's
15 intermediary or an agent to attempt to circumvent this
16 section.
17 c. Anything for which the public servant pays fair market
18 value for.
19 d. Any contribution that is lawfully made under the
20 Campaign Finance Laws of the State of Michigan, Public
21 Act 388 of 1976, MCL 169.201 et seq.
22 e. Anything provided by an individual on the basis of a
23 personal friendship unless the public servant has
24 reason to believe that, under the circumstances, the
25 gift was provided because of the employment position
26 of the public servant and not because of the personal
27 friendship. In determining whether a gift is provided
28 on the basis of personal friendship, the public
29 servant shall consider the circumstances under which
30 the gift was offered, such as: (1) the history of the
31 relationship between the individual giving the gift
32 and the public servant, including any previous
33 exchange of gifts between those individuals; (2)
34 whether to the actual knowledge of the public servant,
35 the individual who gave the gift personally paid for
36 the gift or sought a tax deduction or business
37 reimbursement for the gift; and (3) whether to the
38 actual knowledge of the public servant, the individual
39 who gave the gift also at the same time gave the same
40 or similar gifts to other public servants.
41 f. Food or refreshments not more than \$75.00 per person
42 per transaction; provided that the food or
43 refreshments are (1) consumed on the premises from
44 which they were purchased or prepared, or (2) catered.
45 For the purpose of this section, "catered" means food

- 1 or refreshments that are purchased ready to consume
2 which are delivered by any means.
- 3 g. Food, refreshments, lodging, transportation, and other
4 benefits resulting from outside business or employment
5 activities (or outside activities that are not
6 connected to the official duties of a public servant),
7 if the benefits have not been offered or enhanced
8 because of the employment position of the public
9 servant, and are customarily provided to others in
10 similar circumstances.
- 11 h. Copies of trade publications, books, reports,
12 pamphlets, calendars, periodicals or other
13 informational materials.
- 14 i. Tickets or admission to events.
- 15 j. Admission or registration fee, travel expenses,
16 entertainment, lodging, meals or refreshments that are
17 furnished to the public servant; (i) by the sponsor(s)
18 of an event, appearance or ceremony which is related
19 to official business of the county in connection with
20 such an event, appearance, or ceremony and to which
21 one or more of the public are invited; or (ii) in
22 connection with teaching, a speaking engagement or the
23 provision of assistance to an organization or another
24 governmental entity as long as the county does not
25 compensate the public servant for admission or
26 registration fees, travel expenses, entertainment,
27 meals or refreshments for the same activity; and are
28 customarily provided to others in similar
29 circumstances.
- 30 k. Acceptance of unsolicited advertising of promotional
31 material and other items of nominal value.
- 32 (3) Each of the exceptions listed in this section is mutually
33 exclusive and independent of every other.
- 34 (4) A public servant does not violate this section if they
35 promptly take reasonable action to return the gift.
- 36 (5) A person shall not offer, give, or agree to give any public
37 servant nor shall a public servant solicit, demand, accept,
38 or agree to accept from another person an offer of
39 employment for themselves or for a relative that is intended
40 to induce or to influence any county decision.
- 41 (c) *Incompatible employment.*
- 42 (1) Pursuant to Public Act 566 of 1978, MCL 15.181 et seq., a
43 public servant shall not engage in or accept employment or
44 render services for a private or public interest when that
45 employment or service is incompatible with the discharge of
46 the public servant's official duties.

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- 1 (2) For one year after employment with Wayne County, an elected
2 official shall not be hired or appointed to a compensated
3 county position, nor shall a contract be awarded to the
4 elected official or a business in which the elected official
5 has any interest unless the contract or business transaction
6 has been approved by 3/4 of county commissioners serving and
7 such interest is included in the minutes of the Commission.
- 8 (3) A member of an appointed board or commission may not be
9 appointed or hired to a compensated county position created
10 by that board or commission until at least one year after
11 the completion of their term of office.
- 12 (4) A public servant shall not solicit or receive, for
13 themselves or for a relative or domestic partner,
14 compensation or a gratuity from a board, committee, agency,
15 or entity if the public servant serves on or otherwise
16 participates in the board, committee, agency, or entity on
17 behalf of Wayne County, in any capacity, including, but not
18 limited to, a member, director, employee or consultant.
- 19 (5) Unless he or she is a county elected officer or unless
20 granted a waiver pursuant to subsection (6), a public
21 servant who is on the contract managers list shall not be
22 nor agree to become the paid employee of or independent
23 contractor to a county business.
- 24 (6) Upon request of a public servant, the ethics board shall
25 make a recommendation to approve or deny a waiver to the
26 county commission. If a waiver is recommended by the county
27 ethics board, it may be granted by a majority vote of the
28 county commission, unless a greater majority is required or
29 a waiver is prohibited by state law. If a waiver is not so
30 recommended, a two-thirds vote of the county commission is
31 required to grant a waiver.
- 32 (7) A waiver from the contemporaneous employment prohibition
33 (section 40-4(b)(5)) may be grant upon written determination
34 that:
- 35 a. The contemporaneous employment or financial interest
36 of the public servant has been publicly disclosed;
- 37 b. The public servant will be able to perform their
38 employment duties without actual or apparent bias or
39 favoritism; and
- 40 c. The waiver will be in the best interests of the
41 county.
- 42 (d) *Nepotism.*
- 43 (1) A public servant's relative or domestic partner may be
44 considered for employment if the applicant possesses all the
45 qualifications for employment.

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1 (2) A relative or domestic partner may not be hired, however, if
2 the employment would: (i) create a direct or indirect
3 supervisor/subordinate relationship with the public servant;
4 or (ii) create an actual conflict of interest or the
5 appearance of a conflict of interest.

6 (3) A public servant shall not influence the decision to fill a
7 position in Wayne County government with a person that is a
8 relative or domestic partner of the county public servant.

9 (4) It is the policy of Wayne County not to discriminate in its
10 employment and personnel actions with respect to its
11 employees and applicants on the basis of marital status.
12 Employees who marry or become domestic partners may continue
13 employment as long as there is not: (i) a direct or indirect
14 supervisor/subordinate relationship between the employees;
15 or (ii) an actual conflict of interest or the appearance of
16 a conflict of interest.

17 Should one the above situations occur, the county would
18 attempt to find a suitable position within the Charter
19 County of Wayne to which one of the affected employees may
20 transfer. Exceptions may be made by the appropriate elected
21 official in cases where there is an intermediate level of
22 supervision between the division head or supervisor and the
23 related employee. If accommodations of this nature are not
24 feasible, the employees will first be permitted to determine
25 which of them will resign. If no agreement between the
26 employees can be reached, the appropriate elected official
27 will decide which of the employees will be terminated.

28 (5) The provisions of section 40-4(d)(2) shall not restrict or
29 in any way limit the continued employment of or the
30 employment positions available to a public servant if they
31 are employed on the date the ordinance from which this
32 chapter is derived is adopted by the county commission.

33 (e) *Confidential information.*

34 (1) A public servant shall not benefit financially from
35 confidential information or knowingly use confidential
36 information for actual or anticipated personal gain, or for
37 the actual or personal gain of any other person.

38 (2) A public servant shall not knowingly disclose any
39 information obtained or discussed in closed sessions of the
40 commission in advance of the time prescribed for its
41 authorized release to the public.

42 (3) A public servant shall not divulge confidential information
43 acquired in the course of service to the county in advance
44 of the time prescribed for its authorized release to the
45 public.

46 (f) *Use of public assets for private purposes.*

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- 1 (1) A public servant shall use county personnel, resources,
2 property, and funds under the public servant's official care
3 and control judiciously and solely in accordance with
4 prescribed constitutional, statutory and regulatory
5 procedures and not for personal gain or benefit.
- 6 (2) All county vehicles shall be used in accordance with the
7 county vehicle use ordinance.
- 8 (g) *Inappropriate use of county time and property for political*
9 *activity.*
- 10 (1) A public servant is prohibited from engaging in political
11 campaign activities during hours for which the public
12 servant receives compensation from the county; while using
13 county equipment or resources; or while on property where
14 business of the county is conducted.
- 15 (2) A public servant, personally or through an agent, is
16 prohibited from soliciting other public servants to work on
17 political campaign activities during hours for which the
18 public servant receives compensation from the county; while
19 using county equipment or resources; or while on property
20 where business of the county is conducted.
- 21 (3) A public servant, personally or through an agent, is
22 prohibited from stating or implying to any other public
23 servant that participation in any political activity,
24 including fund-raising events, is necessary for employment
25 or for any benefit of employment within the county.
- 26 (4) A public servant, personally or through an agent, is
27 prohibited from directing or coercing any other public
28 servant from participating in any political activity.
- 29 (h) *Bad faith complaints.* No public servant shall file a complaint
30 under this chapter where: (1) the primary purpose is to harass,
31 embarrass, or injure another public servant; or (2) there is no
32 reasonable basis to believe that the facts alleged were in fact true.
33 Wayne County shall not defend a public servant from a slander or libel
34 lawsuit or an award for damages who violates this subsection.

35
36 Sec. 40-5. Personal disclosure for public servants.

- 37 (a) Each public servant shall file an annual public disclosure form.
38 The statement shall be filed with the Wayne County Department of
39 Personnel and Human Resources by March 15 of each calendar year.
40 The Department of Personnel and Human Resources shall retain a
41 copy of the annual public financial disclosure statement on file
42 until March 15th of the following year. The Department of
43 Personnel and Human Resources shall post the submitted disclosure
44 forms on the county's website. The disclosure form shall be
45 submitted electronically. The public servant shall disclose to

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1 the best of their knowledge and belief all of the following
2 information:

3 (1) Any county business, in which they or a relative or domestic
4 partner has currently or has had a substantial financial
5 interest within the previous 12 months. Disclosure of an
6 interest in a business shall consist of the name and address
7 of the business; and the kind, and owner of the substantial
8 financial interest.

9 (2) The name and address of all sources of employment for
10 himself/herself or relative or domestic partner, including
11 self-employment and consulting work, if that employment is
12 with or for a county business, and if award of a county
13 contract to that business may have a beneficial effect upon
14 the employment, promotion, or remuneration of the person or
15 their relative or domestic partner.

16 (3) All debts owed to or loans obtained from a county business
17 by the public servant, their relative or domestic partner
18 except loans obtained at market-rate terms from a commercial
19 bank, mortgage or auto financier.

20 (b) In his or her annual disclosure statement, a public servant who
21 is a lawyer shall also disclose any compensated appointment by a
22 judge, court administrator, magistrate or clerk of the third
23 circuit court or of the Wayne County Probate Court to serve as
24 legal counsel, advocate, conservator, or public administrator for
25 any party. For purposes of this section, the term "party" shall
26 include an individual, corporation, estate, trust,
27 conservatorship, partnership, or joint venture, construed to the
28 broadest extent. If a public servant has received such an
29 appointment within the previous 12 months, they shall also
30 disclose and refrain from acting and voting upon individual
31 budgetary matters concerning the appointing court, and the matter
32 shall require a two-thirds vote for adoption.

33 (c) A public servant shall file an amended disclosure within 30 days
34 after they or a relative or domestic partner becomes employed by,
35 or acquires a substantial financial interest in a county
36 business. The Department of Personnel and Human Resources shall
37 keep a filing for at least three years.

38
39 Sec. 40-6. Lobbyist registration

40 (a) A lobbyist who lobbies any public servant shall register with the
41 county ethics board by January 1 of each year or before engaging
42 a public servant, whichever occurs first. The ethics board shall
43 devise a registration form which at a minimum shall include: The
44 person's name, their employer's name, type of business, and
45 contact information.

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- 1 (b) A public servant who reasonable believes that an individual is a
2 lobbyist shall verify registration with the ethics board before
3 continuing communications with the individual.
- 4 (c) A lobbyist shall not pay for food and beverage expenses on behalf
5 of any public servant in excess of \$75.00 per person per
6 transaction. All other monetary or non-monetary gratuities by
7 lobbyists to public servants are prohibited with the exception of
8 charity.

9

10 Sec. 40-7. Ethics board.

11 (a) *Establishment of the ethics board.*

12 (1) *Board composition.* The ethics board shall consist of seven
13 members. Each elected official shall appoint an ethics board
14 member (the county commission shall have one appointment
15 made by the chairperson of the commission with approval by
16 majority of commissioners serving) within seven days of the
17 effective date of the ordinance from which this chapter is
18 derived by submitting the name of their appointee to the
19 chairperson of the Wayne County Commission or their
20 designee. Appointment shall be made after applications
21 and/or resumes are received, reviewed, and interviews
22 conducted. The members shall: (i) reside within the
23 boundaries of Wayne County; (ii) not be a public servant of
24 the county or employee of any agency thereof within the
25 preceding 12 months; (iii) not be a relative or domestic
26 partner of a public servant; (iv) not hold an elected public
27 office within Wayne County; (v) not take an active part in
28 managing the political campaign of a candidate for county
29 office; (vi) not have substantial financial interest in any
30 county business or procurement of the county; (vii) not be
31 convicted of any felony or crime involving moral turpitude;
32 and (viii) annually sign and file the ethics statement
33 required of all public servants attesting that they have
34 read, understood, and agree to abide by the standards as set
35 forth.

36 (2) *Compensation.* The members of the ethics board shall receive
37 no compensation for their duties.

38 (3) *Organization.* The presiding officer of the seven member
39 ethics board shall be the chairperson who shall be elected
40 by majority vote of ethics board members. The members shall
41 also elect a vice-chairperson. Four members shall constitute
42 a quorum. A quorum shall be necessary to take any action.
43 The board shall adopt such other rules of procedure as are
44 necessary and consistent with the ordinance from which this
45 chapter is derived, other county ordinances and other laws
46 of the state and federal government.

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- 1 (4) *Reporting requirement.* By December 15 of each year, the
2 board shall submit to all appointing elected officials a
3 written summary of the year's actions.
- 4 (5) *Term of office.* The members of the board shall be appointed
5 for terms of four years and may serve up to two consecutive
6 terms. To avoid the possibility of turning over all members
7 at the same time, terms will be staggered by having the
8 initial appointments of the board expire at different times.
9 All subsequent appointments shall be for terms of four
10 years. Of the initial seven appointments, the appointments
11 of the county clerk and the county commission shall expire
12 December 31, 2014, the appointments of the county executive
13 and the prosecutor shall expire December 31, 2015, and the
14 appointments of the register of deeds, the treasurer and the
15 sheriff shall expire December 31, 2016.
- 16 (6) *Support.* The ethics board shall be furnished with such
17 supplies, professional assistance and technical support as
18 necessary for the discharge of the board's duties as
19 mandated in this chapter, the cost of which shall be
20 allocated in accordance with the county's indirect cost
21 allocation plan.
- 22 (7) *Removal.* Any member of the ethics board may be removed by
23 the appropriate elected official with a majority vote of
24 county commissioners serving, for good cause including, but
25 not limited to, incompetence, substantial neglect of duty,
26 gross misconduct, malfeasance in office, conflict of
27 interest, or violation of any law, pursuant to a hearing,
28 after receiving written notice, stating the grounds for
29 removal.
- 30 (8) *Vacancies.* Ethics board vacancies that occur before the
31 expiration of a term shall be filled by the appropriate
32 elected official for the remainder of that unexpired term,
33 within 30 days of notice of the vacancy.
- 34 (9) *Indemnification of board members.* The County of Wayne shall
35 defend the members of the ethics board and indemnify them
36 against any claims or causes of action that may be asserted
37 against them arising from their actions or duties under this
38 ordinance. Consistent with Wayne County Ordinance 49-7(d),
39 the county shall not provide legal services to, or retain
40 outside counsel for service on behalf of and in
41 representation of an individual who is a party in a criminal
42 matter.
- 43 (b) *Open Meetings Act.* The ethics board is subject to Open Meetings
44 Act, Public Act 267 of 1976, MCL 15.261 et seq.
- 45 (c) *Complaints—Due process.*

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- 1 (1) Any individual who believes a violation of this ethics
2 ordinance has occurred may file a complaint with the ethics
3 board. The complaint shall comply with the following
4 requirements: (i) be in writing; (ii) contain the name,
5 address and phone number of the complainant; (iii) contain
6 the name and position, if known, of the public servant
7 alleged to have violated this chapter ("respondent"); (iv)
8 contain a statement of the alleged facts and circumstances
9 which shall specify the provision of the ethics ordinance
10 that is alleged to have been violated; (v) contain a
11 statement that the complainant has read the complaint and
12 know its contents, and believes the alleged violations to be
13 true; and (vi) contain the signature of the complainant
14 before a notary. The failure of a public servant to file an
15 annual public disclosure form as required under section 40-5
16 may also be the subject of a complaint under this section.
- 17 (2) Complaints shall be filed with the designee of the ethics
18 board who shall process all documents in accordance with
19 this chapter.
- 20 (3) If the allegations contained in the complaint appear to be
21 criminal in nature, the ethics board shall immediately
22 forward the complaint and all documentation it has received
23 relating to the complaint to the office of the Wayne County
24 Prosecutor and no further action shall be taken by the
25 board. In the event of a criminal referral, all deadlines
26 for the board to respond are stayed until a response is
27 received from the Wayne County Prosecutor's Office.
- 28 (4) To the extent required by law, the identity of the
29 complainant shall be kept confidential.
- 30 (5) A copy of the complaint shall be promptly served on the
31 respondent by the designee of the ethics board.
- 32 (6) The respondent, or his/her designee, may file an answer with
33 the ethics board within 21 calendar days after being served
34 with the complaint. A copy of the response shall be promptly
35 served on the complainant by the designee of the ethics
36 board.
- 37 (7) The answer shall comply with all of the following: (i) be in
38 writing; (ii) include a response to each allegation raised
39 in the complaint; and (iii) contain the signature of the
40 respondent and designee, if being filed by person other than
41 the respondent, before a notary.
- 42 (8) The complainant may file additional written information with
43 the ethics board no later than 7 calendar days after being
44 served with the response. The respondent may file additional
45 written information with the ethics board no later than 7

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1 calendar days after being served with the complainant's
2 additional written information. Any additional information
3 provided to the ethics board shall be promptly served on the
4 opposing party by the designee of the ethics board.

5 (9) Upon expiration of the time provided for written
6 submissions, the complaint, answer, and any other written
7 submission shall be presented to the ethics board for its
8 consideration. The ethics board may request additional
9 information regarding the complaint, answer, or any
10 additional information that may have been submitted. To the
11 extent required by law, information acquired by the ethics
12 board may be kept confidential.

13 (10) Failure of respondent to comply with 40-7(c)(6) or (7) shall
14 not prohibit the ethics board from proceeding with
15 disposition of a complaint.

16 (d) [RESERVED]

17 (e) *Hearings.*

18 (1) No later than 120 calendar days after receiving the
19 complaint, the ethics board shall convene a hearing on the
20 complaint.

21 (2) Not fewer than ten calendar days before the date of a
22 hearing, the complainant, the respondent, witnesses, and the
23 appropriate elected official shall be notified. The notice
24 shall state the time, place, and date, as determined by the
25 ethics board.

26 (3) The complainant and the respondent shall have an opportunity
27 to address the ethics board.

28 (4) The complainant or the respondent has the right to be
29 represented by legal counsel provided at their own expense
30 and not that of the county.

31 (5) The ethics board shall do any of the following: (i) request
32 the attendance of any witness whose testimony, in the
33 judgment of the ethics board, will aid in the conduct of its
34 investigations; (ii) request the production of books,
35 papers, and other documentary evidence to aid the ethics
36 board in its investigation; (iii) fix the time and form for
37 the submission of evidence or argument.

38 (6) Within 150 calendar days after receiving the complaint, the
39 ethics board shall render its decision, by majority vote of
40 the members appointed, on the complaint.

41 a. A complaint may be dismissed if the ethics board
42 determines that it (a) lacks jurisdiction over the
43 person subject to the complaint; (b) lacks
44 jurisdiction over the subject matter; (c) the
45 complaint is barred because of release, prior

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1 judgment, or other disposition of the claim before the
2 complaint was filed; (d) the complaint on its face
3 fails to state a claim of unethical conduct; or (e)
4 there is insufficient evidence to believe that this
5 chapter has been violated.

6 b. In the event that the board determines that the ethics
7 ordinance was violated, the positive determination and
8 all findings of fact shall be reported as follows.

9 (i) If a county employee is involved, the positive
10 determination and findings of fact shall be
11 reported to the employee; the appropriate
12 department head; personnel/human resources; and,
13 the appropriate elected official, for application
14 of appropriate discipline as provided by any
15 applicable collective bargaining agreement or
16 civil service rules and shall be published in the
17 transparency section of the Wayne County website.

18 (ii) If a contractor is involved, the positive
19 determination shall be forwarded to the
20 contractor; the appropriate department head; the
21 purchasing director and/or the department of
22 personnel/human resources; and, the appropriate
23 elected official, for review of the appropriate
24 steps permitted under the contract and shall be
25 published in the transparency section of the
26 Wayne County website.

27 (iii) If an appointee is involved, the positive
28 determination shall be forwarded to the
29 appointee; the department of personnel/human
30 resources; and, the appropriate elected official,
31 and for disciplinary consideration, as
32 appropriate and shall be published in the
33 transparency section of the Wayne County website.

34 (iv) If an elected official is involved, the positive
35 determination and finding of fact shall be
36 forwarded to the elected official and published
37 in the transparency section of the Wayne County
38 website.

39
40 (f) *Standard of review.* The standard of review shall be the
41 preponderance of credible and relevant evidence. The complainant
42 shall have the burden of introducing the requisite evidence to
43 prove the alleged unethical conduct. The person requesting an
44 advisory opinion shall have the burden of presenting facts or
45 issues to the ethics board for its consideration. The person
46 whose conduct is being questioned has all of the following

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1 rights: (i) be present; (ii) be represented by counsel; (iii)
2 testify; (iv) produce and examine witnesses; (v) cross-examine
3 adverse witnesses; and (vi) introduce other evidence as may be
4 material and relevant to the issues.

5 (g) *Advisory opinions.*

6 (1) Any public servant may make a written request for an
7 advisory opinion if the public servant is in doubt as to
8 whether their conduct is in compliance with the requirements
9 of this chapter. A request may be made anonymously.

10 (2) The public servant shall provide any additional information
11 requested by the ethics board.

12 (3) Within 90 days of receiving the request, the ethics board
13 shall determine its advisory opinion at a meeting.
14

15 Sec. 40-8. Whistleblower protection.

16 (a) No complainant, or public servant acting on behalf of the
17 complainant, shall be discharged, threatened or otherwise
18 discriminated against regarding compensation, terms, conditions,
19 location or privileges of employment because: (i) the complainant
20 or public servant acting on behalf of the complainant reports or
21 is about to report, in writing, a violation or suspected
22 violation of this chapter; or (ii) the complainant or public
23 servant acting on behalf of the complainant is requested to
24 participate in an investigation, hearing or inquiry held pursuant
25 to this chapter, or in any related court action.

26 (b) This section shall not apply to a complainant, or public servant
27 acting on behalf of a complainant, who knowingly makes a false
28 report.
29

30 Sec. 40-9. Ethics statement.

31 (a) The director of personnel/human resources shall provide each
32 public servant with a copy of this ethics ordinance and an ethics
33 statement within 30 days of adoption of the ordinance from which
34 this chapter is derived by the county commission and to every new
35 hire upon commencement of employment.

36 (b) Every public servant shall sign an ethics statement attesting
37 that they have read, understood and agreed to abide by the
38 standards set forth in this chapter. The signed ethics statements
39 shall be filed with the department of personnel/human resources.
40

41 Sec. 40-10. Penalties.

42 (a) This chapter shall not be construed to diminish or impair the
43 rights of a public servant under any collective bargaining
44 agreement, nor the county's obligation to comply with such
45 collective bargaining agreements.

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- 1 (b) Notwithstanding this chapter, criminal penalties and civil
2 remedies set forth by state statute apply to conduct regulated by
3 those statutes.
- 4 (c) A violation of this chapter shall be a municipal civil infraction
5 punishable by a fine of not more than \$500.00 and costs.
- 6 (d) In addition to any other penalty, whether criminal or civil, a
7 public servant who violates this chapter may be subject to
8 disciplinary action including censure, reprimand, removal,
9 dismissal or discharge by the employer of the public servant.

10

11 **SECTION 2: SEVERABILITY**

12

13 The provisions of this Ordinance shall be severable. If a court of
14 competent jurisdiction declares any provision of this Ordinance
15 unconstitutional or otherwise invalid the remaining provisions of this
16 Ordinance shall remain valid and enforceable.

17

18 **SECTION 3: EFFECTIVE DATE**

19

20 This Ordinance is effective thirty (30) days after its adoption by the
21 Wayne County Commission.

22

23 **ADOPTED BY THE WAYNE COUNTY COMMISSION DECEMBER 18, 2014.**

24

25 (2014-68-008)