

1  
2 **ENROLLED ORDINANCE**

3  
4 **No. 2012-364**

5  
6  
7 **INTRODUCED BY COMMISSIONER(S): Gebhardt and Varga**

8  
9 **AN ORDINANCE TO AMEND CHAPTER 73 OF THE WAYNE COUNTY CODE OF**  
10 **ORDINANCES ENTITLED "FRAUD INVESTIGATION POLICY", AS AMENDED, TO**  
11 **PROVIDE CONSISTENCY WITH THE PROVISIONS OF THE WAYNE COUNTY ETHICS**  
12 **ORDINANCE; AND TO CLARIFY THE PENALTIES FOR VIOLATION OF THIS**  
13 **ORDINANCE.**

14  
15 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF WAYNE:**

16  
17 **SECTION 1: CODE OF ORDINANCES AMENDED**

18  
19 Chapter 73 of the Wayne County Code of Ordinances is amended to read  
20 as follows:

21  
22 Sec. 73-1. Purposes.

23  
24 The authority and responsibilities of the county prosecutor under the  
25 state constitution, statute and law, to conduct investigative  
26 activities on behalf of the county shall be published by the Director  
27 of the Department of Personnel and Human Resources to all elected  
28 officials, directors, officers and employees, to accomplish the  
29 following:

- 30  
31 (1) To promote an atmosphere of honesty throughout the county.  
32  
33 (2) To inform all persons of the county's concern over improper  
34 activities and the action the county will take in those  
35 instances where individuals choose to conduct themselves  
36 against the best interests of the county.  
37  
38 (3) To place all elected and appointed officials, directors,  
39 officers and employees of the county on notice that  
40 wrongdoing of a criminal nature must be reported directly to  
41 the county prosecutor. Supervisors shall be advised of those  
42 reports, except when not appropriate.  
43  
44 (4) To advise all elected officials, directors, officers and  
45 employees to refrain from investigating, interviewing or

1           interrogating persons suspected of wrongdoing of a criminal  
2           nature in order to minimize the potential for civil  
3           liability, and to maximize the potential for successful  
4           conviction when the facts support that conclusion.  
5           Investigations involving suspected wrongdoing of a criminal  
6           nature shall only be conducted by the county prosecutor.

- 7  
8           (5) To place all appointed officers, directors and employees on  
9           notice of the access to premises, records and property  
10          provisions in order to protect the county against possible  
11          charges of violation of expectancy of privacy.

12  
13   Sec. 73-2. Actions required.

14  
15   (A) In order to provide the protection needed by the county through  
16   the publication of its statement of policy pertaining to reporting,  
17   investigation, prosecution and prevention of suspected wrongdoing of a  
18   criminal nature by county elected officials, officers and employees,  
19   the following actions shall be taken by the Director of the Department  
20   of Personnel and Human Resources by April 12, 2012:

- 21  
22          (1) The full text shall be made a part of county policy manuals.  
23  
24          (2) The full text shall be placed on each bulletin board  
25          throughout the county.  
26  
27          (3) The full text shall be sent to each elected or appointed  
28          official, director, officer and employee of the county, who  
29          shall be required to acknowledge in writing:  
30  
31                  a. They have received the policy statement;  
32                  b. They have read the policy statement; and  
33                  c. They have understood the policy statement.  
34  
35          (4) The full text shall be given to each new director, officer  
36          and full-time employee and part-time employee when they are  
37          hired, rehired or appointed/elected and the acknowledgement  
38          described in subsection (3) above shall be obtained.  
39  
40          (5) All acknowledgements obtained shall be placed in individual  
41          personnel files and shall be retained permanently.  
42  
43          (6) All labor contracts shall be negotiated to be consistent  
44          with this policy.  
45

1 (B) The Director of the Department of Personnel and Human Resources  
2 shall annually submit a report regarding compliance with this section  
3 to the Chairperson of the County Commission, who shall refer the  
4 report to the appropriate committee.

5  
6 Sec. 73-3. Policy established.

7  
8 (a) The following policy is established pertaining to reporting,  
9 investigation, prosecution and prevention of suspected wrongdoing of a  
10 criminal nature by county elected officials, officers and employees:

11  
12 (1) If a county elected official, officer or employee becomes  
13 aware of facts or circumstances which give cause to suspect  
14 any kind of wrongdoing of a criminal nature which involves  
15 county property or services, or which involves county  
16 employees while engaged in their scope of employment, he/she  
17 shall promptly make a report to the Wayne County Fraud and  
18 Corruption Investigation Unit within the Office of the  
19 Prosecuting Attorney. Examples of suspected wrongdoing of a  
20 criminal nature include among others all of the following:  
21 theft of public property; theft from other persons while on  
22 county duty or using county authority; embezzlement;  
23 soliciting or accepting kick-backs; soliciting or accepting  
24 favors or bribes from vendors or from beneficiaries of  
25 county services; unauthorized provision of official forms  
26 and identification; willful neglect; falsification,  
27 destruction or unauthorized sale of public records;  
28 falsification of payroll records or claims for expense  
29 reimbursement; short-changing or taking money from members  
30 of the public under false pretenses; deliberate sabotage of  
31 public property or processes; conversion of public property  
32 to personal or private use; abuse of public authority or  
33 investigatory powers for personal gain or satisfaction; and  
34 possession, sale or use of illegal controlled substances  
35 while on duty. If the suspected offense is of a criminal  
36 nature, then appropriate officials, as herein designated,  
37 shall assure that all reports receive prompt and discreet  
38 follow-up, investigation and where substantiated,  
39 prosecution and/or disciplinary action. If the suspected  
40 offense is not of a criminal nature, then the matter may be  
41 referred by the Prosecutor to the appropriate county  
42 official(s) and/or the Wayne County Ethics Board for a  
43 prompt and appropriate resolution.

44  
45 (2) Except as provided in subsection 3 below, a person shall  
46 report all cases of work-related suspected wrongdoing of a

1 criminal nature to the Wayne County Fraud and Corruption  
2 Investigation Unit within the Office of the Prosecuting  
3 Attorney, by phone, in person, or electronically, to be  
4 verified, if requested, by a written statement. Unless it  
5 appears that the department head(s) may be involved in the  
6 wrongdoing, the Wayne County Fraud and Corruption  
7 Investigation Unit shall promptly confer with the affected  
8 department head(s), if appropriate under the law and if it  
9 would not compromise any criminal investigation. The Wayne  
10 County Fraud and Corruption Investigation Unit shall also  
11 promptly confer as needed with other appropriate county  
12 officials to protect county assets and interests.  
13

14 (3) A person who is employed in the Wayne County Prosecutor's  
15 Office shall report all cases of work-related suspected  
16 wrongdoing of a criminal nature in accordance with the  
17 applicable policy governing disqualifications and conflicts  
18 of interest of internal reviews.  
19

20 (4) If a County Elected Official, Officer, or Employee becomes  
21 aware of facts or circumstances which give cause to suspect  
22 any kind of wrongdoing that is not of a criminal nature,  
23 then he/she shall promptly make a report to the Wayne County  
24 Ethics Board or to the appropriate Elected Official.  
25

26 (5) The Wayne County Fraud and Corruption Investigation Unit  
27 shall designate a single phone number to accept reports of  
28 suspected wrongdoing, which shall be known as the "fraud  
29 hotline".  
30

31 (6) A county elected official, officer or employee shall not  
32 undertake any kind of investigation suspected wrongdoing  
33 before conferring with the Wayne County Fraud and Corruption  
34 Investigation Unit. If the Wayne County Fraud and Corruption  
35 Investigation Unit determines that the suspected wrongdoing  
36 is of a criminal nature or if it otherwise objects to the  
37 elected official, officer or employee undertaking an  
38 investigation, then the elected official, officer or  
39 employee shall not investigate the matter. Communications  
40 with the Wayne County Fraud and Corruption Investigation  
41 Unit are protected by investigative immunity. Communications  
42 with an elected official, officer or employee are not  
43 immune. The county shall not defend an elected official,  
44 officer or employee, from a slander or libel lawsuit or an  
45 award for damages, who violates this policy.  
46

- 1 (7) The Director of the Department of Personnel and Human  
2 Resources shall establish a training program to assure that  
3 every department head, supervisor, and employee is made  
4 fully aware of this policy, of the tell-tale signs of  
5 wrongdoing, and of the specific disciplinary actions which  
6 will be taken if a person violates this policy.  
7
- 8 (8) Every elected official, officer or employee shall cooperate  
9 with the Wayne County Fraud and Corruption Investigation  
10 Unit in making an investigation, and shall take no action  
11 which may jeopardize or compromise the investigation. If an  
12 elected official, officer or employee takes a deliberate  
13 action which impedes or compromises an investigation, that  
14 person may be charged with obstruction of justice, and  
15 prosecuted to the fullest extent that the law provides.  
16
- 17 (9) Only the Wayne County Fraud and Corruption Investigation  
18 Unit, or other appropriate law enforcement agency may  
19 investigate suspected wrongdoing of a criminal nature. Fraud  
20 is often a difficult matter to detect, prove, and prosecute.  
21 Incriminating evidence may be hidden or destroyed before an  
22 investigation can be completed. Ill-founded accusations of  
23 wrongdoing, made to persons other than appropriate law  
24 enforcement officials, may result in an infringement of the  
25 civil rights of the accused, and substantial personal and  
26 county liability for slander or libel. Elected officials,  
27 officers or employees shall cooperate fully with the Wayne  
28 County Fraud and Corruption Investigation Unit to  
29 successfully isolate and establish whether wrongdoing has  
30 occurred or is continuing to occur, and if so, to assure  
31 successful prosecution of all parties involved.  
32
- 33 (10) A person shall not disclose to any person other than those  
34 within the Wayne County Fraud and Corruption Investigation  
35 Unit the fact that an investigation has been or is being  
36 conducted, nor the results of the investigation, unless it  
37 is appropriate under the law and it would not compromise any  
38 criminal investigation.  
39
- 40 (11) The Wayne County Fraud and Corruption Investigation Unit  
41 shall have unlimited access to the public records and  
42 property of the county, whether rented or owned. except for  
43 property and premises in the direct possession, custody or  
44 use of a charter-created elected officer, investigators  
45 operating under the guidance of the prosecuting attorney  
46 shall have unlimited access to all offices, desks, desk

1 drawers, cabinets, files, boxes, storage containers, waste  
2 baskets, shredder baskets, computers, safes, lockers, coat  
3 racks, supply cabinets, closets, and storage areas without  
4 notice and without the specific prior knowledge or consent  
5 of the person or persons who ordinarily have custody,  
6 possession and use of the space or equipment. All non-  
7 elected officers and employees shall be required as a  
8 condition of employment to sign a consent statement to such  
9 unlimited access. The Wayne County Fraud and Corruption  
10 Investigation Unit may search property and premises in the  
11 direct possession, custody or use of an elected official  
12 only with the specific consent of the subject official or  
13 only after obtaining a search warrant from a court of  
14 competent jurisdiction.  
15

16 (12) Auditors, whether internal audit staff, members of the  
17 auditor general's staff, external auditors, or federal  
18 compliance auditors, shall be responsible for making  
19 recommendations on administrative and accounting systems  
20 which help prevent and detect fraud and other wrongdoing,  
21 but not for the investigation of specific cases of suspected  
22 fraud or wrongdoing. When fraud or wrongdoing is suspected,  
23 auditors shall comply with the same rules and procedures as  
24 would an employee.  
25

26 (13) As Promulgated in SAS 99, Section 79, "Communications about  
27 possible fraud to management and those charged with  
28 governance ..." the county's internal and external auditors  
29 shall communicate annually to the Audit Committee, after  
30 completion of the fiscal year audit of county financial  
31 statements, their evaluation and views of management's  
32 identification of fraud risks and anti-fraud measures,  
33 including but not limited to, the ability of management to  
34 override information processed by the entity's financial  
35 reporting system.  
36

37 (14) The county shall assume no responsibility nor liability for  
38 an employee, officer or elected official who incurs personal  
39 liability for slander or libel by making statements or  
40 releasing confidential reports to the news media.  
41

42 (15) The Wayne County Fraud and Corruption Investigation Unit  
43 shall confer semi-annually with the Audit Committee of the  
44 County Commission pursuant to the Open Meetings Act,  
45 regarding completed investigations, and recommend  
46 improvements in this policy and in county fraud control

1 systems. The Chief Executive Officer, Chief Financial  
2 Officer, Chief Judges of the Circuit, Probate and Recorders  
3 Courts, Clerk, Register of Deeds, Sheriff, and Treasurer  
4 shall be invited to take part in these sessions. The Wayne  
5 County Fraud and Corruption Investigation Unit shall also  
6 confer as needed with the Corporation Counsel regarding  
7 civil actions to recover county property. The Auditor  
8 General shall also make recommendations to the Audit  
9 Committee regarding fraud control systems.

10  
11 (b) The Whistleblowers' Protection Act (Public Act 469 of 1980)  
12 prohibits retaliatory discharge of employees for reporting a violation  
13 or suspected violation of federal, state or local laws, rules or  
14 regulations, unless the employee knows the report is false. The act  
15 also prohibits the discharge of an employee requested to participate  
16 by a public body in an investigation, hearing, inquiry, or court  
17 action.

18  
19 If any employee believes that Wayne County has violated the Act, an  
20 employee may bring a civil action in circuit court within 90 days of  
21 the alleged violation of the Act.

22  
23 (c) For purposes of the policy set forth in this Ordinance, any action  
24 required by the Wayne County Fraud and Corruption Investigation Unit  
25 shall be the responsibility of the person who directly oversees the  
26 unit. All responsibilities of the unit may be undertaken by the Wayne  
27 County Prosecuting Attorney and his or her designee.

28  
29 SEC. 73-4. Penalties established.

30  
31 To the extent provided by law and in addition to any penalties set  
32 forth in this Ordinance or as otherwise provided by law or  
33 disciplinary action taken by the County, a person who violates section  
34 73-3(a)(6), (8), (9) or (10) of this Ordinance shall be responsible  
35 for a Municipal Civil infraction of \$500 per occurrence; and a person  
36 who violates any other provision of this Ordinance shall be  
37 responsible for a Municipal Civil infraction of \$150 per occurrence.

38  
39 **SECTION 2: SEVERABILITY**

40  
41 The provisions of this Ordinance shall be severable. If a court of  
42 competent jurisdiction declares any provision of this Ordinance  
43 unconstitutional or otherwise invalid the remaining provisions of this  
44 Ordinance shall remain valid and enforceable.

45  
46 **SECTION 3: EFFECTIVE DATE**

1  
2 This Ordinance is effective immediately upon adoption by the Wayne  
3 County Commission.

4  
5 **ADOPTED BY THE WAYNE COUNTY COMMISSION JUNE 21, 2012.**

6  
7 (2012-68-010)

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