

MACOMB TOWNSHIP ORDINANCE NO. 278

MACOMB TOWNSHIP STANDARDS OF ETHICAL CONDUCT

AN ORDINANCE TO ESTABLISH A STANDARD OF ETHICS FOR ALL PUBLIC SERVANTS OF MACOMB TOWNSHIP.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE TOWNSHIP OF MACOMB:

Sec. 1 - Title.

This Ordinance shall be known and shall be cited as the "Macomb Township Ethics Ordinance."

Sec. 2 - Purpose.

This Ordinance establishes standards of ethical conduct for all Township Public Officials and Employees (as defined below). It proscribes actions incompatible with the public interest. The intent of this ordinance is to be preventative.

Sec. 3 - Preamble.

Macomb Township residents and those conducting business in or with Macomb Township are entitled to fair, ethical and accountable government. Public Officials and Employees hold positions of public trust and their actions must remain above reproach, in furtherance of maintaining public confidence in the integrity of Macomb Township.

Sec. 4 - Responsibilities of Public Office.

Public Officials are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out impartially and comply with the laws of the United States, State of Michigan, and the Township. Public Officials and Employees must not exceed their authority or breach the law or ask others to do so. Public Officials and Employees are bound to observe in their official acts the highest standards of ethical conduct and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their official conduct should be above reproach.

Michigan's State Constitution's oath of office requires all Public Officials to swear under oath to faithfully discharge the duties of their office. This is a "fiduciary duty" owed to all members of the Public. Public Officials must observe their fiduciary duties to the Township and the public, including the duty of loyalty and the duty of care. Effective township governance requires adherence to the ethical requirements provided by law and the faithful exercise of each Public Official's duty. All Public Officials and Employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non-partisanship in all official acts,

and by avoiding official conduct which may tend to undermine respect for Public Officials and Employees and for the Township as an institution.

Sec. 5 - Definitions.

As used in this Ordinance, the following terms shall have the meanings ascribed to them:

A. Appointee shall mean a person appointed to a compensated or uncompensated position in Township 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 Trustees.

B. Board of Trustees shall mean the Macomb Township Board of Trustees comprised of the Supervisor, the Clerk, the Treasurer and four (4) Trustees.

C. Business Entity shall mean any agents, agency, contractors, vendors, or entities operated for economic gain, whether professional, industrial, or commercial, and whether established to produce or deal with a product or service, including but not limited to entities operated in the form of a corporation, limited liability company, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or other entities which is organized for profit.

D. Confidential Information shall mean information obtained by a Public Official or Employee 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.

E. Conflict of Interest shall mean:

- a. The Public Official or Employee has any Pecuniary Interest in the outcome of a matter currently before the Township, or is associated as owner, member, partner, Official, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said Public Official's or Employee's governmental duties, or;
- b. The Public Official or Employee has reason to believe or expect that he or she will derive financial benefit or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;
- c. The Public Official or Employee has any other prohibited interest as defined by state or federal law relating to conflicts of interest.

Employee shall mean an individual who is hired by the Township to provide Services on a continuing basis, whether full-time, part-time, temporary,

intermittent, hourly, or via an employment contract.

F. Gift shall mean any gratuity, discount, entertainment, hospitality, 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.

"Gift" does not include:

1. Information-gathering trips paid for by a person or entity seeking approval of a proposal from a decision-making body of the Township, provided that the decision-making body, prior to the trip, makes all of the following determinations:

- a. The information will be useful and material;
- b. The trip will improve and not unduly influence the decisional process;
And,
- c. The Board of Trustees designates the individual to participate.

2. Small perishable or consumable gifts of a nominal value, and any reportable campaign contributions pursuant to State Law.

G. Immediate Family Member shall mean Public Official's or Employee' spouse, parent, parent-in-law, step-parent, sibling, child, step-child or grandparent.

H. Pecuniary Interest means the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction.

I. Public Official shall mean the Board of Trustees and Appointees.

J. Publicly Disclose shall mean 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 and the nature of same.

K. Unethical Conduct shall mean a violation of any prohibited conduct as described in this Ordinance.

Sec. 6 - Prohibited conduct

No Public Official or Employee shall directly or indirectly, solicit or accept any gift of any person or organization, other than the Township, which tends to influence the manner in which the official or Employee or any other official or Employee performs his or her official duties.

Except as permitted by this ordinance, a Public Official or Employee shall not intentionally solicit or accept any Gift from any Business Entity.

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 an Immediate Family Member of the Public Official or Employee, provided that the Immediate Family Member 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 duties of the Public Official or Employee, if the benefits have not been offered or enhanced because of the Public Official's or Employee's official position or employment and are customarily provided to others in similar circumstances.
7. Admission or registration fees, travel expenses, entertainment, lodging, meals or refreshments that are furnished to the Public Official or Employee: (i) by the sponsor(s) of an event, appearance or ceremony which is related to official Township 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, Official, board member, or committee member of an organization or another governmental entity as long as the Township does not compensate the Public Official or Employee 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 Official or Employee shall obtain approval prior to attending from the Board of Trustees.
8. Anything for which the Public Official or Employee 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 Official or Employee has reason to believe that, under the circumstances, the Gift was provided because of the Public Official's or Employee's official position or employment. In determining whether a Gift

is provided on the basis of personal friendship, the Public Official or Employee 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 Official or Employee, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the Public Official or Employee 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 Official or Employee the individual who gave the gift also at the same time gave the same or similar gifts to other Public Officials and Employees.

11. If a friend of a Public Official or Employee offers to pay or agrees to pay for the Public Official's or Employee's travel outside the state, the Public Official or Employee shall obtain approval prior to that travel from the Board of Trustees.
12. Admission to a charitable or non-profit event or fundraiser when the Public Official or Employee is attending as a representative of the Township or for which other Public 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 official or governmental official when the Public Official or Employee is attending as a representative of the Township 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.
14. Each of the exceptions listed in this Section is mutually exclusive and independent of every other.
15. The Public Official or Employee does not violate this Section if the Public Official or Employee promptly takes reasonable action to return the Gift. No Public Official or Employee shall divulge to any unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public. No Public Official or Employee shall represent his or her personal opinion as that of the Township.

Every Public Official or Employee shall use resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.

- A. No Public Official or Employee shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.
- B. No Public Official or Employee shall engage in or accept employment or render services for any Business Entity when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when

that employment may tend to impair his or her judgment or action in the performance of his or her official duties.

- C. No Public Official or Employee shall participate, as an agent or representative of the Township, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any Business Entity in which he or she has, directly or indirectly, a financial or personal interest.
- D. No Public Official or Employee shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.
- E. No Public Official or Employee shall acquire any financial benefit in or accept any employment concerning any project which has been granted approval by the Township or any commission, board, department or Employee thereof within one year of the Public Official's or Employee's participation in any manner in considering or recommending the approval or disapproval of said project.
- F. No Public Official or Employee shall use his/her official position to unreasonably secure, request or grant, any privileges, exemptions advantages, contracts, or preferential treatment for himself / herself or others.
- G. A Public Official or Employee who acquires information in the course of his or her official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person, nor use the information to further the private interest of the Public Official or Employee or any third party. Information which is deemed exempt from disclosure under the Michigan Freedom of Information Act, Act 442, Public Acts of Michigan, 1976, or which is the subject of a duly called closed meeting held in accordance with the Michigan Open Meetings Act, Act 267, Public Acts of Michigan, 1976 is confidential.
- H. A Public Official or Employee shall not, solicit others to work on political campaign activities, or solicit campaign contributions from others, using Township property during working hours, on their behalf or on the behalf of another.

Sec. 7-Public Disclosure Requirements.

Any Public Official or Employee, with a Conflict of Interest (as defined herein) shall Publicly Disclose the Conflict of Interest.

Sec. 8 - Violation, Enforcement and Advisory Opinions.

A. Board of Ethics:

1. The Board of Trustees shall appoint a Board of Ethics, consisting of three members, as an advisory body for the purpose of interpreting this Ordinance and as otherwise defined herein ("Board of Ethics").
2. The initial three members of the Board of Ethics shall be appointed for one-, two-, and three-year terms of office respectively. Terms of office shall expire on December 31st of the respective years. Thereafter, all members shall be appointed to three-year terms, beginning January 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The Board of Trustees shall fill a vacancy by an appointment for the unexpired term only.
3. The Board of Ethics shall be made up of residents of the Township that the Board of Trustees determines to be the best qualified for this position.
 - a. The members of the Board of Ethics shall serve without compensation, and shall not otherwise be a Public Official or Employee.
 - b. The Board of Ethics shall select a presiding member from among the Board of Ethics members.
 - c. The Board of Trustees shall establish such procedures it deems necessary or appropriate for the Board of Ethics to perform its functions as set forth in this Ordinance.
 - d. After appointment to the Board of Ethics, each member of the Board of Ethics shall be considered an Appointee for purposes of this Ordinance.

B. Board of Ethics - Function:

When there is a question or a complaint as to the applicability of any provision of this Ordinance to a particular situation, that question or complaint shall be directed to the Board of Ethics. It shall then be the function of the Board of Ethics to deliberate and/or issue an advisory opinion, as applicable. The Board of Ethics will conduct itself pursuant to Rules of Procedure as established by the Board of Trustees.

C. Board of Ethics - Powers and Duties

The Board shall:

- A. Receive complaints concerning alleged unethical conduct by a Public

Official or Employee from any person or entity, inquire into the circumstances surrounding the alleged unethical conduct, and make recommendations concerning individual cases to the Macomb Township Board of Trustees;

- B. Initiate investigations of practices that could affect ethical conduct of a Public Official or Employee.
- C. Hold public hearings.
- D. Issue and publish advisory opinions upon request from a Public Official, Employee or the Macomb Township Board of Trustees relating to matters affecting ethical conduct of a Public Officer or Employee.

Sec. 9 - Penalties

After the Board of Ethics' advisory opinions and/or findings have been disclosed:

- A. The Board of Trustees shall be responsible for imposing any sanctions for a violation of this Ordinance on the appropriate Public Official or Employee;
- B. If it becomes necessary to seek the removal of a Public Official or Employee, after the Board of Ethics' advisory opinion and/or findings, the Township shall follow the requirements for removal in accordance with the laws of the State of Michigan; and;
- C. The Board of Trustees shall be responsible for imposing any discipline for a violation of this Ordinance on any Public Official or Employee.
- D. A Public Official or Employee who reports or is about to report a violation of this Ordinance shall not be subject to any of the following sanctions because they reported or were about to report such violation.
 - (1) Dismissal from employment or office.
 - (2) Withholding of salary increases that are ordinarily forthcoming to the Employee.
 - (3) Withholding of promotions that are ordinarily forthcoming to the Employee.
 - (4) Demotion in employment status.
 - (5) Transfer of employment location.

Sec. 10 - Primacy of Collective Bargaining Agreements.

Nothing in this Ordinance shall be read or implied to supersede any provision of a collective bargaining agreement to which Macomb Township is a party.

Sec. 11 - Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the

extent necessary to give this Ordinance full force and effect. This ordinance shall supersede any conflicting Township policies.

Sec. 12 - Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Sec. 13 - Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Sec.14 - Effective date.

The provisions of this Ordinance are hereby ordered to take effect upon publication in accordance with and in the manner prescribed by the Township of Macomb, Macomb County, Michigan. Any violations or complaints prior to the effective date of this ordinance shall not be enforceable.

Sec. 15 - Adoption.

MOTION by Nevers seconded by Goodhue that this ordinance is declared to have been enacted by the Board of Trustees of Macomb Township at a meeting called and held on the 23rd day of October, 2019, and ordered to be given publication in the manner prescribed by law.

Roll Call:

Ayes: Nevers, Goodhue, Bussineau, Krzeminski, Smith, Pozzi, Dunn

Nays: None

Absent:None

ORDINANCE declared adopted this 23rd day of October, 2019.



Kristi Pozzi, Clerk
Macomb Township

