PROPOSED ORDINANCE

No. 2014-734

INTRODUCED BY COMMISSIONER(S): WORONCHAK

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

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

SECTION 1: CODE OF ORDINANCES AMENDED

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

Sec. 40-1. Citation.
This chapter shall be cited as the ethics ordinance.

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

Sec. 40-3. Definitions.
For purpose of this chapter, words, terms and phrases shall have the following meanings:

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

Complainant means the individual filing a complaint.

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

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

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

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

County decision means a recommendation, approval, or rejection of a procurement, contract, resolution or ordinance, or any other official action taken on behalf of the citizens of Wayne County.
Domestic partner means unmarried couples, both same-sex and opposite-sex, living together for at least six-months who meet the following criteria: are not blood relatives, are at least 18 years of age, are mentally competent, and not legally married or in any other domestic partnership.

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

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

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

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

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

Nominal value means not more than $75.00 per person per transaction.

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

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

Personal gain means any benefit which is accepted or received by a public servant or is perceived by a reasonable person to be accepted or received by a public servant as remuneration for the purpose of improperly influencing an official action in a specific manner or for refraining from the performance of an official action in a specific
manner, or as inducement for the public servant to act in favor of some interest other than the public interest.

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

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

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

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

Respondent means the individual against whom a complaint has been filed.

Substantial financial interest means:

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than $10,000.00 per year, or its equivalent; or

(2) Ownership of five percent or more of any property or business; or

(3) Holding a key position in a business such as an officer, director, trustee, partner, sales manager, or the like, or holding any position of management, but not including persons who serve without compensation on the board of directors of a charitable organization, which has recognized status under section 501(c)(3) of the Internal Revenue Code.
Take part directly or indirectly means involvement through negotiation, decision, approval, disapproval, recommendation, preparation of any part of a purchase influencing the content of any specification or procurement standard; rendering of advice, investigation, or auditing; inspecting, managing, or accepting performance; or in any other advisory capacity, but excluding clerical support to these transactions.

Sec. 40-4. Standards of conduct.
(a) Conflict of interest.
(1) A public servant shall not participate in the making of any county decision with respect to any matter in which they or a relative or domestic partner has a substantial financial interest which is distinguishable from that of the general public.
(2) If a public servant has a conflict of interest in a particular county procurement, they shall not take part directly or indirectly in that procurement and shall immediately notify their superior, if applicable.
(3) There is a conflict of interest whenever a public servant knows or should reasonably be expected to know that they or a relative or domestic partner:
a. Has a substantial financial interest in any procurement; or
b. Is presently employed by any county business in a managerial or other key position, or has become employed by any county business in any kind of position within the previous 12 months; or
c. Has negotiated or is negotiating for employment with any county business, or with another party who is likely to become a party to a contract, such as, a prospective sub-contractor or consultant; or
d. Has a substantial financial interest in a business in which one or more of the principal beneficiaries of this county business also has a substantial financial interest. A substantial financial interest in a disclosed blind trust is not a conflict of interest.
(4) There is a conflict of interest if a public servant uses confidential information for their personal gain or for the personal gain of a relative or domestic partner, or others.
(5) This chapter shall not in any manner vary or change the requirements of Contracts of Public Servants with Public Entities Act, Public Act 317 of 1968, MCL 15.321 et seq., which governs the solicitation by and participation in government contracts by public servants of the county and preempts all local regulation of such conduct.
(b) Gifts and gratuities.

(1) Except as permitted by this chapter, a person shall not offer, give, or agree to give any public servant nor shall a public servant solicit, demand, accept, or agree to accept from another person, a gratuity for themselves or for a relative or domestic partner.

(2) Exceptions. Section 40-4(b)(1) is not applicable to the following:

a. Opportunities, benefits, and services that are available on the same conditions as for the general public.

b. A gift received from a public servant's relative or domestic partner, provided that the relative or domestic partner is not acting as a third party's intermediary or an agent to attempt to circumvent this section.

c. Anything for which the public servant pays fair market value for.

d. Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan, Public Act 388 of 1976, MCL 169.201 et seq.

e. 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 employment position of the public servant and not because of the personal friendship. 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: (1) the history of the relationship between the individual giving the gift and the public servant, including any previous exchange of gifts between those individuals; (2) 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 (3) 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.

f. Food or refreshments not more than $75.00 per person per transaction; provided that the food or refreshments are (1) consumed on the premises from which they were purchased or prepared, or (2) catered. For the purpose of this section, "catered" means food
or refreshments that are purchased ready to consume
which are delivered by any means.
g. 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 employment position of the public
servant, and are customarily provided to others in
similar circumstances.
h. Copies of trade publications, books, reports,
pamphlets, calendars, periodicals or other
informational materials.
i. Tickets or admission to events.
j. Admission or registration fee, 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 business of the county 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 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.
k. Acceptance of unsolicited advertising of promotional
material and other items of nominal value.

(3) Each of the exceptions listed in this section is mutually
exclusive and independent of every other.

(4) A public servant does not violate this section if they
promptly take reasonable action to return the gift.

(5) A person shall not offer, give, or agree to give any public
servant nor shall a public servant solicit, demand, accept,
or agree to accept from another person an offer of
employment for themselves or for a relative that is intended
to induce or to influence any county decision.

(c) Incompatible employment.

(1) Pursuant to Public Act 566 of 1978, MCL 15.181 et seq., 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 with the discharge of
the public servant's official duties.
(2) For one year after employment with Wayne County, an elected official shall not be hired or appointed to a compensated county position, nor shall a contract be awarded to the elected official or a business in which the elected official has any interest unless the contract or business transaction has been approved by 3/4 of county commissioners serving and such interest is included in the minutes of the Commission.

(3) A member of an appointed board or commission may not be appointed or hired to a compensated county position created by that board or commission until at least one year after the completion of their term of office.

(4) A public servant shall not solicit or receive, for themselves or for a relative or domestic partner, compensation or a gratuity from a board, committee, agency, or entity if the public servant serves on or otherwise participates in the board, committee, agency, or entity on behalf of Wayne County, in any capacity, including, but not limited to, a member, director, employee or consultant.

(5) Unless he or she is a county elected officer or unless granted a waiver pursuant to subsection (6), a public servant who is on the contract managers list shall not be nor agree to become the paid employee of or independent contractor to a county business.

(6) Upon request of a public servant, the ethics board shall make a recommendation to approve or deny a waiver to the county commission. If a waiver is recommended by the county ethics board, it may be granted by a majority vote of the county commission, unless a greater majority is required or a waiver is prohibited by state law. If a waiver is not so recommended, a two-thirds vote of the county commission is required to grant a waiver.

(7) A waiver from the contemporaneous employment prohibition (section 40-4(b)(5)) may be grant upon written determination that:
   a. The contemporaneous employment or financial interest of the public servant has been publicly disclosed;
   b. The public servant will be able to perform their employment duties without actual or apparent bias or favoritism; and
   c. The waiver will be in the best interests of the county.

(d) Nepotism.

(1) A public servant's relative or domestic partner may be considered for employment if the applicant possesses all the qualifications for employment.
(2) A relative or domestic partner may not be hired, however, if the employment would: (i) create a direct or indirect supervisor/subordinate relationship with the public servant; or (ii) create an actual conflict of interest or the appearance of a conflict of interest.

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

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

Should one of the above situations occur, the county would attempt to find a suitable position within the Charter County of Wayne to which one of the affected employees may transfer. Exceptions may be made by the appropriate elected official in cases where there is an intermediate level of supervision between the division head or supervisor and the related employee. 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 appropriate elected official will decide which of the employees will be terminated.

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

(e) Confidential information.

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

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

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

(f) Use of public assets for private purposes.
(1) A public servant shall use county personnel, resources, property, and funds under the public servant's official care and control judiciously and solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.

(2) All county vehicles shall be used in accordance with the county vehicle use ordinance.

(g) **Inappropriate use of county time and property for political activity.**

(1) A public servant is prohibited from engaging in political campaign activities during hours for which the public servant receives compensation from the county; while using county equipment or resources; or while on property where business of the county is conducted.

(2) A public servant, personally or through an agent, is prohibited from soliciting other public servants to work on political campaign activities during hours for which the public servant receives compensation from the county; while using county equipment or resources; or while on property where business of the county is conducted.

(3) A public servant, personally or through an agent, is prohibited from stating or implying to any other public servant that participation in any political activity, including fund-raising events, is necessary for employment or for any benefit of employment within the county.

(4) A public servant, personally or through an agent, is prohibited from directing or coercing any other public servant from participating in any political activity.

(h) **Bad faith complaints.** No public servant shall file a complaint under this chapter where: (1) the primary purpose is to harass, embarrass, or injure another public servant; or (2) there is no reasonable basis to believe that the facts alleged were in fact true. Wayne County shall not defend a public servant from a slander or libel lawsuit or an award for damages who violates this subsection.

Sec. 40-5. **Personal disclosure for public servants.**

(a) Each public servant shall file an annual public disclosure form. The statement shall be filed with the Wayne County Department of Personnel and Human Resources by March 15 of each calendar year. The Department of Personnel and Human Resources shall retain a copy of the annual public financial disclosure statement on file until March 15th of the following year. The Department of Personnel and Human Resources shall post the submitted disclosure forms on the county's website. The disclosure form shall be submitted electronically. The public servant shall disclose to
the best of their knowledge and belief all of the following information:

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

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

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

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

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

Sec. 40-6. Lobbyist registration

(a) A lobbyist who lobbies any public servant shall register with the county ethics board by January 1 of each year or before engaging a public servant, whichever occurs first. The ethics board shall devise a registration form which at a minimum shall include: The person's name, their employer's name, type of business, and contact information.
(b) A public servant who reasonable believes that an individual is a lobbyist shall verify registration with the ethics board before continuing communications with the individual.

c) A lobbyist shall not pay for food and beverage expenses on behalf of any public servant in excess of $75.00 per person per transaction. All other monetary or non-monetary gratuities by lobbyists to public servants are prohibited with the exception of charity.

Sec. 40-7. Ethics board.
(a) Establishment of the ethics board.

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

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

(3) Organization. The presiding officer of the seven member ethics board shall be the chairperson who shall be elected by majority vote of ethics board members. The members shall also elect a vice-chairperson. Four members shall constitute a quorum. A quorum shall be necessary to take any action. The board shall adopt such other rules of procedure as are necessary and consistent with the ordinance from which this chapter is derived, other county ordinances and other laws of the state and federal government.
(4) Reporting requirement. By December 15 of each year, the board shall submit to all appointing elected officials a written summary of the year's actions.

(5) Term of office. The members of the board shall be appointed for terms of four years and may serve up to two consecutive terms. To avoid the possibility of turning over all members at the same time, terms will be staggered by having the initial appointments of the board expire at different times. All subsequent appointments shall be for terms of four years. Of the initial seven appointments, the appointments of the county clerk and the county commission shall expire December 31, 2014, the appointments of the county executive and the prosecutor shall expire December 31, 2015, and the appointments of the register of deeds, the treasurer and the sheriff shall expire December 31, 2016.

(6) Support. The ethics board shall be furnished with such supplies, professional assistance and technical support as necessary for the discharge of the board's duties as mandated in this chapter, the cost of which shall be allocated in accordance with the county's indirect cost allocation plan.

(7) Removal. Any member of the ethics board may be removed by the appropriate elected official with a majority vote of county commissioners serving, for good cause including, but not limited to, incompetence, substantial neglect of duty, gross misconduct, malfeasance in office, conflict of interest, or violation of any law, pursuant to a hearing, after receiving written notice, stating the grounds for removal.

(8) Vacancies. Ethics board vacancies that occur before the expiration of a term shall be filled by the appropriate elected official for the remainder of that unexpired term, within 30 days of notice of the vacancy.

(9) Indemnification of board members. The County of Wayne shall defend the members of the ethics board and indemnify them against any claims or causes of action that may be asserted against them arising from their actions or duties under this ordinance. Consistent with Wayne County Ordinance 49-7(d), the county shall not provide legal services to, or retain outside counsel for service on behalf of and in representation of an individual who is a party in a criminal matter.

(b) Open Meetings Act. The ethics board is subject to Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq.

(c) Complaints—Due process.
(1) Any individual who believes a violation of this ethics ordinance has occurred may file a complaint with the ethics board. The complaint shall comply with the following requirements: (i) be in writing; (ii) contain the name, address and phone number of the complainant; (iii) contain the name and position, if known, of the public servant alleged to have violated this chapter ("respondent"); (iv) contain a statement of the alleged facts and circumstances which shall specify the provision of the ethics ordinance that is alleged to have been violated; (v) contain a statement that the complainant has read the complaint and know its contents, and believes the alleged violations to be true; and (vi) contain the signature of the complainant before a notary. The failure of a public servant to file an annual public disclosure form as required under section 40-5 may also be the subject of a complaint under this section.

(2) Complaints shall be filed with the designee of the ethics board who shall process all documents in accordance with this chapter.

(3) If the allegations contained in the complaint appear to be criminal in nature, the ethics board shall immediately forward the complaint and all documentation it has received relating to the complaint to the office of the Wayne County Prosecutor and no further action shall be taken by the board. In the event of a criminal referral, all deadlines for the board to respond are stayed until a response is received from the Wayne County Prosecutor’s Office.

(4) To the extent required by law, the identity of the complainant shall be kept confidential.

(5) A copy of the complaint shall be promptly served on the respondent by the designee of the ethics board.

(6) The respondent, or his/her designee, may file an answer with the ethics board within 21 calendar days after being served with the complaint. A copy of the response shall be promptly served on the complainant by the designee of the ethics board.

(7) The answer shall comply with all of the following: (i) be in writing; (ii) include a response to each allegation raised in the complaint; and (iii) contain the signature of the respondent and designee, if being filed by person other than the respondent, before a notary.

(8) The complainant may file additional written information with the ethics board no later than 7 calendar days after being served with the response. The respondent may file additional written information with the ethics board no later than 7
calendar days after being served with the complainant’s additional written information. Any additional information provided to the ethics board shall be promptly served on the opposing party by the designee of the ethics board.

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

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

(d) [RESERVED]

(e) Hearings.

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

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

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

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

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

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

a. A complaint may be dismissed if the ethics board determines that it (a) lacks jurisdiction over the person subject to the complaint; (b) lacks jurisdiction over the subject matter; (c) the complaint is barred because of release, prior
judgment, or other disposition of the claim before the
complaint was filed; (d) the complaint on its face
fails to state a claim of unethical conduct; or (e)
there is insufficient evidence to believe that this
chapter has been violated.

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

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

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

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

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

(f) Standard of review. The standard of review shall be the
preponderance of credible and relevant evidence. The complainant
shall have the burden of introducing the requisite evidence to
prove the alleged unethical conduct. The person requesting an
advisory opinion shall have the burden of presenting facts or
issues to the ethics board for its consideration. The person
whose conduct is being questioned has all of the following
rights: (i) be present; (ii) be represented by counsel; (iii) testify; (iv) produce and examine witnesses; (v) cross-examine adverse witnesses; and (vi) introduce other evidence as may be material and relevant to the issues.

(g) Advisory opinions.

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

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

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

Sec. 40-8. Whistleblower protection.

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

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


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

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

Sec. 40-10. Penalties.

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

SECTION 2: SEVERABILITY

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

SECTION 3: EFFECTIVE DATE

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

ADOPTED BY THE WAYNE COUNTY COMMISSION December 18, 2014.

(2014-68-008)