



Public Meeting Room C  
Delta Township Administration Building  
7710 West Saginaw Highway  
Lansing, MI 48917

**NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE  
REGULAR MEETING  
AGENDA  
Monday, February 26, 2024**

- I. SWEARING IN OF MEMBERS**
- II. CALL TO ORDER**
- III. ROLL CALL – MEMBERS:** Karen Holcomb-Merrill, Andrea Kincaide, Barbara Poma, Jerry Slade, Katherine Talbot, Ananda Worden
- IV. APPROVAL OF AGENDA**
- V. APPROVAL OF MINUTES**
  - a. January 2023
- VI. PUBLIC HEARINGS**
- VII. OLD BUSINESS**
- VIII. NEW BUSINESS**
  - a. Election of Officers
  - b. Handbook Review
    - i. Review of Ordinance
    - ii. Rules and Procedures
    - iii. Open Meetings Act
  - c. 2024 Meeting Schedule
  - d. Ethics Policy
- IX. PUBLIC COMMENTS**
- X. CORRESPONDENCE**
- XI. ADJOURNMENT**

**CHARTER TOWNSHIP OF DELTA**

Phone (517) 323-8500

*Individuals with disabilities attending Township meetings or hearings and requiring auxiliary aids or services should contact Township Manager and ADA Coordinator Brian T. Reed by email at [manager@deltami.gov](mailto:manager@deltami.gov) or calling (517) 323-8590 to inform him of the date of the meeting or hearing that will be attended. Copies of minutes may be purchased or viewed in the Clerk's Office from 8 a.m. to 5 p.m., Monday through Friday.*

**DELTA TOWNSHIP  
7710 WEST SAGINAW HIGHWAY  
LANSING, MI 48917**

**NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE  
MEETING MINUTES  
January 19, 2023**

**6:00 P.M.**

- I. SWEARING IN OF NEW MEMBERS** – Tracy Ruiz, Deputy Township Clerk, had all members take the oath of office and were sworn in prior to the meeting being called to order.
- II. CALL TO ORDER** –Chair Barbara Poma called the meeting to order at 6:00 p.m.
- III. ROLL CALL AND DETERMINATION OF QUORUM** –  
Committee Members Present: Barbara Poma, Jerry Slade, Karen Holcomb-Merrill, Katherine Talbot, and Andrea Kincaide  
Committee Members Absent: none  
  
Others Present: Linda Wells, Delta Township H.R. Generalist, Kyla Moore, H.R. Director, and Wendy Yaney, H.R. Generalist  
  
Linda Wells introduced Kyla Moore and Wendy Yaney to the committee. Linda Wells announced her retirement effective February 28, 2023, and stated that Ms. Moore or Ms. Yaney would be the township’s liaison for the committee moving forward.
- IV. APPROVAL OF AGENDA** – Motion made by Barbara Poma to approve the agenda as presented; Katherine Talbot seconded the motion; agenda approved.
- V. APPROVAL OF MINUTES** – Motion made by Barbara Poma to revise minutes of January 25, 2022, meeting and corrections suggested. The revisions were made and sent to members via email on January 20; all members responded and approved revised minutes.
- VI. PUBLIC HEARINGS** – None.
- VII. OLD BUSINESS** – None.
- VIII. NEW BUSINESS**

**1. Election of Officers**

- a. **Chair** – Chair Poma stated that the floor was open for nomination of Chair. Katherine Talbot moved to appoint Barbara Poma as chair of the committee; Karen Holcomb-Merrill supported the motion; the motion passed unanimously.
- b. **Vice-Chair** – Chair Poma stated the floor was open for nomination of Vice-Chair. Barbara Poma moved to appoint Andrea Kincaid as vice-chair of the committee; Jerry Slade supported the motion; the motion passed unanimously.
- c. **Secretary** – Chair Poma stated the floor was open for nomination of Secretary. Barbara Poma moved to appoint Jerry Slade as secretary of the committee; Karen Holcomb-Merrill supported the motion; the motion passed unanimously.

**2. Handbook Review**

Linda Wells distributed copies of the Ordinance and Rules and Procedures and stated that no changes had been made since the ordinance was adopted in 2013. The Open Meetings Act was also distributed. All members received the Committee Handbook.

**3. Meeting Schedule**

Discussion ensued regarding availability and the consensus was that the best day of the week is Tuesday. Barbara Poma stated that if there was no business, the meeting would be cancelled, except for the first meeting of the year which would be considered the annual meeting.

Barbara Poma opened discussion to adopt a meeting schedule. The Committee discussed options and agreed on the third Tuesday of the month on a quarterly basis. The meeting schedule for 2023 shall be:

- January 19, 202 @ 6:00 p.m.
- April 18, 2023 @ 6:00 p.m.
- July 18, 2023 @ 6:00 p.m.
- October 27, 2023 @ 6:00 p.m.

If there are no business items, the meeting(s) will be cancelled.

Barbara Poma moved to accept the meeting schedule; Katherine Talbot supported. Motion approved unanimously.

**4. Ethics Policy**

Linda Wells addressed the Committee to review the Ethics Policy. An overview of the Ethics Policy was given. Committee members were asked to sign acknowledgment of the policy and were reminded that the acknowledgement must be renewed annually.

- IX. PUBLIC COMMENTS (non-agenda items) – None.**
- X. CORRESPONDENCE (non-agenda items) – None.**
- XI. ADJOURNMENT –** Barbara Poma moved to adjourn the meeting at 6:30 p.m.; Karen Holcomb-Merrill supported the motion; the meeting was adjourned.

# Non-Discrimination Complaint Review Committee



## 2024 Handbook

# Welcome ...

and congratulations on your appointment to participate on the Delta Township Non-Discrimination Complaint Review Committee. As an appointed member of this committee, you have accepted the challenge of helping to shape important decisions on behalf of the Township Board and the residents of Delta Township.



Kenneth R. Fletcher



Mary R. Clark



Dennis Fedewa



Elizabeth "Beth" Bowen



Fonda J. Brewer



Andrea M. Cascarila



Karen J. Mojica

Delta Township Board

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*“I am of the opinion that my life  
belongs to the community, and as long  
as I live it is my privilege to do for it  
whatever I can.”*

*~George Bernard Shaw*

# **APPOINTMENT PROCESS**

## **NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE**

### **Membership Composition**

The Committee shall consist of five (5) township residents appointed by the Township Board. To the extent possible, the Committee shall be representative of the population of Delta Township. One of the five individuals shall be a licensed Michigan attorney.

### **Public Solicitation**

At least once a year the Clerk's Office advertises for applicants for all Township boards, commissions, etc. The Clerk's Office maintains a pool of applications and provides copies of applications of those who are requesting appointment to a specific committee/commission/board to the appropriate department involved.

Each member of the committee shall be a resident of Delta Township.

If there are no applications on file at the time of the vacancy, the Clerk's Office will advertise and/or recruit applicants based upon interest and/or involvement with the Township.

Existing members whose terms are expiring are required to request re-appointment if they so desire.

### **Selection Process**

Applications and/or requests for re-appointments are reviewed. Interviews are held as necessary of all interested candidates. Reviews of existing members are also done as terms expire. The Township Supervisor shall recommend the appointment of members of the Non-Discrimination Complaint Review Committee.

### **Board Appointment**

A memo concerning a recommendation and motion for approval of the applicant is placed as an agenda item on a regular board agenda. The Clerk's Office will then notify the applicant of the appointment.



ADOPTION OF CODE OF ORDINANCE AMENDMENTS

AMENDMENT TO THE CODE OF ORDINANCE CHAPTER 27, NON-DISCRIMINATION ORDINANCE

At a duly scheduled and noticed meeting of the Township Board of the Charter Township of Delta, Eaton County, Michigan, held at the Delta Township Offices on October 21, 2013 at 6:00 p.m., Township Board Member, Treasurer Howard Pizzo moved to adopt the following Ordinance, which motion was seconded by Township Board Member, Clerk Mary R. Clark:

AN ORDINANCE OF THE CHARTER TOWNSHIP OF DELTA, EATON COUNTY, MICHIGAN, PROVIDING THAT THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF DELTA, MICHIGAN, BE AMENDED BY ADDING A NEW CHAPTER 27 ("NON-DISCRIMINATION") TO PROHIBIT DISCRIMINATORY PRACTICES; PROVIDE DEFINITIONS; ESTABLISH PROCEDURES FOR INVESTIGATIONS AND CONCILIATION AGREEMENTS; REQUIRE TOWNSHIP CONTRACTORS TO ABIDE BY NON-DISCRIMINATION; PROVIDE PENALTIES; REPEAL ORDINANCES AND PORTIONS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND PROVIDE AN EFFECTIVE DATE HEREOF.

THE TOWNSHIP BOARD OF TRUSTEES FOR THE CHARTER TOWNSHIP OF DELTA HEREBY ORDAINS:

Section 1. Addition of Chapter 27. The Code of Ordinances, Charter Township of Delta, Michigan (or Delta Charter Township Code), is hereby amended by adding a new Chapter, Chapter 27, which shall read as follows.

CHAPTER 27 – NON-DISCRIMINATION  
ARTICLE I – IN GENERAL

**Sec. 27-1. Intent.**

It is the intent of the Township that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, or gender identity/expression. It is also the intent of the Township to preserve the rights of religious organizations granted to religious organizations by Michigan and Federal law. This Chapter shall govern discriminatory *conduct* and shall not infringe upon free speech rights granted by the First Amendment to the United States Constitution. Nothing contained in this chapter shall be construed to prohibit any affirmative action policies passed by any level of government.

**Sec. 27-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Age.* Chronological age.

*Complaint Review Committee.* Five (5) citizens of Delta Township responsible for reviewing complaints which shall, to the extent possible, collectively be representative of the population of Delta Township. One (1) of the five (5) individuals shall be a licensed Michigan attorney. The Complaint Review Com-

mittee shall remain an impartial decision-maker. Members shall adhere to the Delta Charter Township Ethics Policy and abstain from participation if they have a conflict of interest.

*Conciliation Agreement.* An agreement entered into between the Complaint Review Committee, the person alleged to have been discriminated against and the person alleged to have engaged in a prohibited practice under this chapter, whereby the persons agree to methods of resolving a compliant, terminating discrimination or reversing the effects of past discrimination.

*Contractor.* A person who by contract furnishes services, materials, or supplies. "Contractor" does not include persons who are merely creditors or debtors of the Township, such as those holding the Township's notes or bonds or persons whose notes, bonds or stock is held by the Township.

*Discriminate.* To make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation or gender identity/expression. Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.

*Employer.* A person employing one or more persons.

*Employment agency.* A person regularly undertaking, with or without compensation, to procure, refer, recruit, or place an employee for an employer, or to procure, refer, recruit, or place for an employer or person the opportunity to work for an employer and includes any agent of that person.

*Familial status.* 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.

*Gender identity/expression.* A person's actual or perceived gender, including a person's gender identity, self-image, appearance, expression, or behavior, whether or not that gender identity, self-image, expression, or behavior is different from that traditionally associated with the person's sex at birth as being either female or male.

*Housing facility.* Any dwelling unit or facility used for a person to regularly sleep and keep personal belongings including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

*Labor organization.* Includes an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employees concerning grievances, labor disputes, wages, rate of pay, hours, or other terms or conditions of employment.

*Marital status.* The state of being married, unmarried, divorced or widowed.

*Mental limitation.* A limitation of mental capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of mental

capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Mental limitation" includes, but is not limited to, developmental disabilities, psychological, etc. "Mental limitation" does not include any condition caused by the current illegal use of alcohol, prescription drugs or a controlled substance.

*Minority.* A person who is Black or African American, Native American, or Alaskan native, Hispanic or Latino, Asian, Native Hawaiian or other Pacific Islander.

*Perceived.* To regard or attain awareness or understanding of something through one's perception or senses. As used in this chapter, the word refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken. For example, a perceived mental limitation is one where the person who takes action perceives the person against whom such action is taken as having a mental limitation, regardless of whether the person against whom such action is taken has a mental limitation or regards himself or herself as having a mental limitation.

*Person.* Shall mean an individual, organization, corporation, limited liability company, partnership or other unincorporated or incorporated public or private entity of any kind.

*Physical limitation.* A limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment. "Physical limitation" does not include any condition caused by the current illegal use of alcohol, prescription drugs or a controlled substance.

*Place of public accommodation.* An educational, governmental, health, entertainment, recreational, refreshment, transportation, financial institution, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the general public, or which receives financial support through the solicitation of the general public or through governmental subsidy of any kind, but shall not mean any facility not open or accessible to the general public. By way of example, day care operations being conducted in a private home shall not be considered a place of public accommodation. Place of public accommodation does not include a facility operated by a religious organization or institution regardless of whether it is open or accessible to the public. Nothing in this definition shall be construed to limit any rights under the Michigan or United States Constitutions.

*Religious organization or institution.* A religious association, educational institution or society, which is, in whole or substantial part, owned, supported, controlled or managed by a particular religion whose purpose or character is directed toward the propagation of that particular religion and that has the inculcation of religious values as its purpose; primarily employs persons who share its religious tenets; and primarily serves persons who share its religious tenets or, on a charitable basis, the broader community. "Religious organization or institution" includes, but is not limited to, the following: churches, mosques, synagogues and other houses of worship; any subsidiary organizations; or educational insti-

tutions affiliated with, controlled, or managed by those houses of worship or with articles of incorporation, bylaws and other documents stating an intention to inculcate its religious tenets in students.

*Sexual orientation.* Male or female homosexuality, heterosexuality or bisexuality, by orientation or practice, whether past or present.

*Source of income.* Any legal source from which a person obtains money.

**Sec. 27-3. Discriminatory housing practices.**

- a) No person shall discriminate in referring, leasing, selling, renting, showing, advertising, pricing, offering, inspecting, listing, or otherwise making available any real property, including discrimination in providing information and receiving or communicating a bona fide offer on any real property.
- b) No person shall discriminate in (1) the application, conditions, or granting of mortgages or other financing or (2) the contracting of construction, rehabilitation, maintenance, repair, or other improvement of any housing facility.
- c) No person shall refuse to lend money for the purchase or repair of any real property because of the location in the township of such real property, except for legitimate non-discriminatory reasons related to actual risks associated with the property itself, such as being within a floodplain.
- d) No person shall promote any sale, rental, lease, sublease, exchange, transfer, or assignment of real property by representing that demographic changes are occurring or will occur in an area with respect to any illegitimate or discriminatory characteristics.
- e) No person shall indicate, communicate, or otherwise represent to another person that any real property or interest therein is not available for inspection, sale, rental, or lease knowing in fact it is available, including failing to make a person aware of a real property listing, refusing to permit inspection of real property, and representing that a property has been sold when in fact it has not.

**Sec. 27-4. Discriminatory public accommodation practices.**

- a) No person shall discriminate in making available full and equal access to all goods, services, activities, privileges and accommodations of any place of public accommodation.
- b) No person shall prohibit a breastfeeding mother from, or segregate a breastfeeding mother within, any public accommodation where she and the child would otherwise be authorized to be.
- c) This article shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation, or if it is licensed, chartered, or certified by the state or any of its political subdivisions.

**Sec. 27-5. Discriminatory employment practices.**

- a) It is unlawful for an employer to:
  1. Limit, segregate, classify, fail or refuse to hire, to recruit, to discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment provided under Michigan law, including a benefit plan or system because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation or gender identity/expression, or because of the use by an individual of adaptive devices or aids.
  2. Fail or refuse to hire, recruit, or promote an individual on the basis of any physical or mental limitations that are not directly related to the requirements of the specific job.

3. Discharge or take other discriminatory action against an individual on the basis of any physical or mental limitations that are not directly related to the requirements of the specific job.
  4. Fail or refuse to hire, recruit, or promote an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.
  5. Discharge or take other discriminatory action against an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.
  6. Discriminate against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of a misdemeanor arrest, detention, or disposition where a conviction did not result. This section does not apply to felonies or information relative to a felony charge before conviction or dismissal.
  7. Make, keep or use an oral inquiry, form of application, or record that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, height, weight, marital status, sexual orientation, gender identity/ expression, or because of the use by an individual of adaptive devices or aids except where applicable under federal and state law, or local ordinance.
- b) An employer, labor organization, or employment agency shall not print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign relating to employment by the employer, or relating to membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, which indicates a preference, limitation, specification, or discrimination, based on actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, gender identity or expression, or the need for any reasonable accommodations, including but not limited to the use by an individual of adaptive devices or aids.
  - c) A person subject to this section may apply to the committee for an exemption on the basis that actual or perceived race, color, religion, national origin, age, sex, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation or gender identity/ expression, is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Upon sufficient showing, the committee may grant an exemption to this section. An employer who does not obtain an exemption for such bona fide occupational qualification shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business.
  - d) This action shall not apply to the employment of an individual by his/her parent, spouse, or child.
  - e) Nothing in this Section shall operate to violate Article I, Section 25 of the Michigan Constitution.

**Sec. 27-6. Other prohibited practices.**

- a) No person shall adopt, enforce or employ any policy or requirement, publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.
- b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- c) No agent, broker, labor union, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this Chapter shall be made to the applicable licensing or regulatory agency for such person or business.

- d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- e) No person shall knowingly conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.
- f) No person shall provide false or misleading information to any authorized person investigating a complaint regarding a violation or alleged violation of this chapter, or sign a complaint for a violation of this chapter based upon false or substantially misleading information.

**Sec. 27-7. Information and investigations.**

- a) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this chapter.
- b) For an investigation, the Complaint Review Committee may request a person to produce violation or alleged violation of this chapter. If said person does not comply with such request, the Township attorney may apply to the Eaton County Circuit Court for an order requiring production of said materials.

**Sec. 27-8. Conciliation agreements.**

In cases involving alleged violations of this chapter, the Complaint Review Committee may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. Violations of such agreements shall be violations of this chapter.

**Sec. 27-9. Injunctions.**

The Township attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this chapter, to reverse the effects of such discrimination or to enforce a conciliation agreement.

**Sec. 27-10. Discriminatory effects.**

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, source of income, familial status, sexual orientation, marital status, physical or mental limitation, or gender identity expression for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons.

**Sec. 27-11. Exceptions.**

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter.

- a) For a religious organization or institution to (i) restrict access or use of any of its facilities it operates; (ii) to restrict employment opportunities for officers, religious instructors, staff and clergy; or (iii) restrict membership or benefits of membership.
- b) For the owner of an owner-occupied single-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.

- c) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, over 55 years of age or who are handicapped.
- d) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women.
- e) To discriminate based on actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, or gender identity/expression when such discrimination is permitted or required by Michigan, Federal, or local law under principles of preemption.
- f) To refuse to enter a contract with an un-emancipated minor.
- g) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- h) To refuse to admit to a place persons under eighteen (18) years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- i) For an educational institution to limit the use of its facilities to those affiliated with such institution.
- j) To provide discounts on products or service to students, minors and senior citizens, or members of an organization.
- k) To discriminate in any arrangement for the sharing of a dwelling unit.
- l) To restrict use of lavatories and locker room facilities on the basis of sex.
- m) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- n) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age or sex.
- o) Placing reasonable restrictions on breast feeding in an area open to the general public.

**Sec. 27-12. Nondiscrimination by Township contractors.**

- a) A written contract to which the township, a political subdivision, or an agency thereof, is a party shall contain a covenant by the contractor and his/her subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, including a benefit plan or system or a matter directly or indirectly related to employment, because of actual or perceived race, color, religion, national origin, age, sex, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, gender identity or expression, or use by an individual of adaptive devices or aids. Breach of this covenant may be regarded as a material breach of the contract.
- b) This section is also applicable to labor organizations, employment agencies, apprenticeships, and job training programs. In addition, a labor organization shall not discriminate in its membership practices nor fail to fairly represent its membership in a grievance process because of actual or perceived religion, race, color, national origin, age, sex, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, gender identity/expression, or use by an individual of adaptive devices or aids.

**Sec. 27-13. Complaints.**

- a) Any person claiming to be discriminated against in violation of this ordinance may file with the Complaint Review Committee a complaint, in writing, setting forth with reasonable specificity the person or persons alleged to have violated this chapter, the specific nature of the violation and the date(s) of the alleged violation. A person filing a complaint must do so within 180 days of the incident forming the basis of the complaint.

- b) To the extent permitted by law, all written complaints of discrimination in employment, public accommodation, public services, and housing received by the Complaint Review Committee shall be kept confidential.
- c) The Complaint Review Committee shall:
  1. Be responsible for receipt, recordation, investigation, mediation, conciliation, recommendation, and/or forwarded to the Township Manager for referral to the Township Attorney;
  2. Ensure there are no undue burdens placed on a Claimant, which might discourage filing of a discrimination complaint.
  3. Commence and complete the complaint investigation, mediation/conciliation, and recommendation process in a timely manner;
  4. Hold any complaint investigation, mediation/conciliation and recommendation in abeyance pending the outcome of any state or federal investigation being conducted or private cause of action arising out of the same operative facts relating to the matter or incident forming the basis of the complaint; and
  5. Refer a complaint it deems valid and sufficiently egregious to the Township Manager for referral to the Township Attorney for review and additional action.

**Sec. 27-14. Investigations and hearing.**

- a) During an investigation, the Complaint Review Committee may request the appearance of witnesses and the production of books, papers, records or other documents that may be relevant to a violation or alleged violation of this chapter.
- b) If the Complaint Review Committee determines that the complaint and preliminary evidence gathered indicates a prima facie violation of any provision in this chapter, the Complaint Review Committee shall conduct a hearing within 90 days after completion of its preliminary investigation. The person alleged to have committed a violation (the “Respondent”) and the Claimant shall be sent by regular mail at least 14 days advance, notice of the scheduled date and time of the hearing and a request for each to appear. At the hearing, testimony will be taken. All testimony shall be on the record, under oath and either recorded or transcribed. Both Claimant and Respondent shall be allowed to testify, present evidence, bring witnesses to testify, and to cross-examine all witnesses at the hearing. Technical rules of evidence shall not apply.
- c) A failure of either the Claimant or the Respondent to cooperate with the Complaint Review Committee may result in an adverse determination for that person at the hearing.

**Sec. 27-15. Findings and recommendations.**

The Complaint Review Committee shall make findings of fact based on the testimony and evidence introduced at the hearing and shall order such relief as the Complaint Review Committee deems appropriate. The findings and recommendations shall be served by regular mail on the Claimant and Respondent. The Claimant and Respondent shall have 30 days from the date the findings and recommendations are mailed to either (1) comply with the findings and recommendations, unless a different time frame is provided by the Complaint Review Committee for compliance, or (2) object to the recommendation to the township board.

**Sec. 27-16. Available recommendations.**

Complaint Review Committee recommendations include:

- a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of such illegal conduct;
- b) Providing that the Respondent apologize to the Claimant;



- c) Closing the matter based upon a mediation/conciliation agreement of the Claimant and Respondent;
- d) Admitting the Claimant to a place of public accommodation or extending full and equal use and enjoyment of said place of public accommodation;
- e) Paying some or all of the Claimant's costs, incurred at any stage of review;
- f) Dismissing the complaint;
- g) Imposing costs against a Claimant for a frivolously filed claim; and
- h) Imposing penalties pursuant to Section 27-17.

**Sec. 27-17. Penalties.**

- a) A violation of a prohibited act in this chapter is designated a municipal civil infraction, is not a crime and shall not be punishable by imprisonment.
- b) Schedule of civil fines. The violation shall be according to the schedule as adopted by resolution of the township board. Such resolution shall be on file in the office of the township clerk.
- c) Continuing violation.
  - 1. For an offense that is a single and discrete occurrence, a single violation shall accrue. Subsequent single and discrete occurrences shall result in additional violations according to the above schedule.
  - 2. For offenses that are continuing in nature, rather than single and discrete, the first violation shall accrue with the first day of the occurrence, and subsequent violations shall accrue for each additional day of that occurrence (for example, an impermissible hiring practice that continues each day on an ongoing basis).
  - 3. For continuing violations under subsection (c)(2), the day of the first occurrence shall be measured from the day of service of the Township Attorney's complaint.

Section 2. Severability. If a court of competent jurisdiction declares any provision of this Ordinance, or a statutory provision referred to or adopted by reference herein, to be unenforceable, in whole or in part, such declaration shall only affect the provision held to be unenforceable and shall not affect any other part or provision. Provided, however, that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the Township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the Township to impose.

Section 3. Repeal. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed; provided that any violation charged before the effective date of this Ordinance under an ordinance provision repealed by this Ordinance shall continue under the ordinance provision then in effect.

Section 4. Effective Date. This ordinance shall take effect immediately after final publication.

CHARTER TOWNSHIP OF DELTA  
MARY CLARK, TOWNSHIP CLERK

**DELTA CHARTER TOWNSHIP**  
**NON-DISCRIMINATION COMPLAINT REVIEW COMMITTEE**

**RULES AND PROCEDURES FOR**  
**PROCESSING, INVESTIGATING, MEDIATING/CONCILIATING,**  
**AND RECOMMENDING RESOLUTION OF COMPLAINTS**

**SECTION 1**

**INTRODUCTION AND AUTHORITY**

Chapter 27 of the Delta Charter Township Code of Ordinances prohibits discriminatory practices, provides procedures for investigating and resolving complaints of discrimination, and establishes the Complaint Review Committee. Section 27-13(c) of the Delta Charter Township Code authorizes the Township Board to promulgate and publish rules and guidelines for processing, investigating, mediating/conciliating, and recommending resolution of complaints filed under this Ordinance. These rules and procedures are adopted by the Township Board pursuant to Chapter 27 of the Delta Charter Township Code of Ordinances.

To the extent permitted by law, the Committee will attempt to keep all complaints confidential. However, such complaints are considered public records under the Freedom of Information Act (P.A. 442 of 1976, as amended). All records, files, publications, correspondence, and other materials shall be available to the public as governed by the Freedom of Information Act. Further, the Committee is a public body, and all of its meetings are subject to and must be held in compliance with the Open Meetings Act (P.A. 267 of 1976, as amended).

**SECTION 2**

**MEMBERS**

By virtue of their appointments, all members agree to abide by these rules and procedures to be considered Committee members in good standing.

**A. Membership Composition.** The Committee shall consist of five (5) township residents appointed by the Township Board. To the extent possible, the Committee shall be representative of the population of Delta Township. One of the five individuals shall be a licensed Michigan attorney.

**B. Terms of Office.** The term of each appointed member shall be three (3) years, or until his or her successor takes office.

**C. Vacancies.** A Committee vacancy occurring otherwise than through the expiration of the term shall be filled for the unexpired term by action of the Township Board.

**D. Restrictions.** A Committee member shall hold no other Township office.

**E. Excused Absences.** To be excused, a member shall notify the Chair at least twenty (24) hours before a meeting from which he or she intends to be absent. If the Chair is not available, the member shall notify the Vice-Chair, Secretary, or Township Manager (in that order). Failure to make such notification will result in an unexcused absence. If notification is given to anyone other than the Chair, that person shall notify the Chair at the earliest possible convenience.

**F. Resignation.** A member may resign by sending a letter of resignation to the Township Manager with a copy to the Complaint Review Committee Chair.

**G. Removal.** The Township Manager may recommend to the Township Board that a Complaint Review Committee member be removed for neglect of duty, or for malfeasance or misfeasance in office. Such removal shall be subject to a public hearing and a concurring majority vote of the Township Board. Any member missing two (2) consecutive regular Committee meetings during a calendar year may be deemed negligent of duty, unless such absences are excused. Any member may inform the Township Manager of instances of suspected neglect of duty, malfeasance or misfeasance by another member.

**H. Conflicts of Interest.** It shall be a conflict of interest for a Complaint Review Committee member to participate in the deliberation or to vote where the member may have a direct or indirect interest in the subject matter before the Complaint Review Committee. This includes but is not limited to situations where a Committee member is related to, employed by, employs, or in any way professionally represents a person (including a company) involved in the subject matter before the Committee.

Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Complaint Review Committee. The member shall be disqualified from voting on the matter upon a concurring majority vote of the remaining members of the Complaint Review Committee.

Failure of a member to disclose a potential conflict of interest constitutes malfeasance in office.

### **SECTION 3**

#### **OFFICERS**

**A. Selection of Officers.** The Complaint Review Committee shall elect its officers (Chair, Vice-Chair and Secretary) from the appointed members of the Committee by a concurring majority vote of the members.

**B. Terms of Office.** The terms of the Chair, Vice-Chair, and Secretary shall be for one (1) year, or until a successor is elected. All Complaint Review Committee officers shall be eligible for re-election to consecutive terms for the same office.

**C. Vacancies.** If a Complaint Review Committee officer position becomes vacant before the end of the regular term of office, the Committee shall elect another person to fill the position in the same manner and under the same conditions outlined above for the remainder of the term of office.

**D. Duties of the Chair.** The Chair shall review and approve Complaint Review Committee meeting agendas in consultation with the Secretary, preside over all Committee meetings, and execute documents and official Committee correspondence in the name of and as directed by the Committee.

**E. Duties of the Vice-Chair.** The Vice-Chair shall perform the duties of the Chair in the absence or disability of the Chair.

**F. Duties of the Secretary.** The Secretary shall perform the following duties:

- (1) Prepare Complaint Review Committee meeting agendas in consultation with the Chair.
- (2) Receive and distribute written correspondence to the Complaint Review Committee.
- (3) Prepare and maintain a permanent written record of the minutes for each meeting, which shall be recorded in suitable permanent records maintained by the Township Clerk. The minutes shall include a brief synopsis of public hearing comments and meeting business, a record of attendance and votes, and a complete restatement of the Committee's findings, conclusions, motions, actions, and conditions.
- (4) Ensure proper preparation and dissemination of Complaint Review Committee meeting and public hearing notices in consultation with the Township Clerk.
- (5) Swear in all parties and witnesses.

**G. Other Duties.** Complaint Review Committee officers shall perform such other duties as directed by the Committee or prescribed by these rules and procedures, state and local laws or the parliamentary authority set forth herein.

## **SECTION 4**

### **DUTIES OF THE COMPLAINT REVIEW COMMITTEE**

**A. General Duties.** The Committee shall perform the duties set forth in Sections 27-13 through 27-16 of the Delta Charter Township Code of Ordinances. As provided in Section 27-13(c), the Committee's duties and responsibilities include the following:

- (1) Be responsible for receipt, recordation, investigation, mediation, conciliation, recommendation, and/or referral to the Office of the Township Attorney;

- (2) Ensure there are no undue burdens placed on a Claimant, which might discourage filing of a discrimination complaint.
- (3) Commence and complete the complaint investigation, mediation/conciliation, and recommendation process in a timely manner;
- (4) Hold any complaint investigation, mediation/conciliation and recommendation in abeyance pending the outcome of any state or federal investigation being conducted regarding the same matter or incident forming the basis of the complaint; and
- (5) Refer a complaint it deems valid and sufficiently egregious directly to the Township Attorney for review and additional action.
- (6) Impose any penalties consistent with Section 27-17 of the Delta Charter Township Code of Ordinances.

**B. Review of Complaints.** The Committee will review each complaint to determine whether the complaint was timely filed and reasonably specific. Section 27-13 requires all complaints to be filed within 180 days of the incident that forms the basis of the complaint, and requires the complaint to set forth with reasonable specificity the following:

- the person or persons alleged to have violated Chapter 27;
- the specific nature of the alleged violation; and
- the date(s) of the alleged violation.

The Committee will inform claimants of untimely and/or vague complaints. In the event of a timely but vague complaint, the Committee may request the complainant to provide more detailed information before conducting or during the preliminary investigation.

The Committee will hold any complaint investigation in abeyance pending the outcome of any state or federal investigation being conducted regarding the same matter or incident forming the basis of the complaint.

The Committee may refer a complaint it deems valid and sufficiently egregious directly to the Township Manager for transmittal to the Township Attorney or review and additional action.

**C. Preliminary Investigations.** After receiving and reviewing a complaint, the Committee will conduct an investigation to determine whether the complaint and preliminary evidence gathered indicates a prima facie violation of any provision of the Non-Discrimination Ordinance (Chapter 27 of the Delta Charter Township Code). The term “prima facie” means that the facts provided by the complainant, if presumed to be true would demonstrate a violation of the Non-Discrimination Ordinance. This is not the final determination of the Committee, because the complaint may potentially be disproved by evidence to the contrary brought forth in the hearing. However, a finding by the Committee of a prima facie violation of the Non-

Discrimination Ordinance alleged, shall require the Respondent to file a response to the alleged discrimination.

When conducting the preliminary investigation, the Committee shall follow the steps below as a guide.

- (1) Review applicable sections of the Non-Discrimination Ordinance.
- (2) Note, preliminarily, the apparent significant factual issues involved in the complaint.
- (3) Interview the complainant and examine all documentary evidence provided by complainant.
  - (a) Listen attentively.
  - (b) Encourage the complainant to describe the circumstances giving rise to filing of the complaint
  - (c) Ask questions necessary to clarify or elicit additional information.
  - (d) Seek specific information; use who, what, where, when, and how type questions.
  - (e) Ask how the victim was affected by what happened and what redress s/he wants.
  - (f) Ask for the names of persons with knowledge of matters related to the complaint, and of persons with whom complainant has spoken about the matter.
  - (g) Ask for copies of any documents which may pertain to the reported event(s).
- (4) Analyze all information and determine whether the evidence provided to this point indicates a prima facie violation of Chapter 27 of the Code of Ordinances. All deliberation and any decision made must take place during a meeting of the Committee held in compliance with the Open Meetings Act.
- (5) Inform the complainant of the decision. State any factual findings and the rationale for those findings. If the decision is that there is evidence of a prima facie violation, then proceed to schedule a hearing and provide proper notice as required by Section 27-14 of the Code of Ordinances.
- (6) Prepare a list of likely witnesses and sources of pertinent information (e.g., a list of records or documents that may shed light on the underlying situation).

**D. Hearings.** During an investigatory hearing, the Complaint Review Committee may request the appearance of witnesses and the production of books, papers, records or other documents that may be relevant to a violation or alleged violation of this chapter.

All testimony taken at the hearing must be on the record, under oath and either recorded or transcribed. The Claimant will be permitted to testify first and present any evidence or witnesses. The Respondent will have an opportunity to review all evidence and cross examine all witnesses called by the Claimant. The Re-

spondent will then be allowed to testify, present any evidence and witnesses to testify on the Respondent's behalf. The Claimant will have an opportunity to cross-examine all witnesses called by the Respondent.

Members of the Complaint Review Committee may ask questions of the Claimant, Respondent, and any witnesses called by either party. Technical rules of evidence shall not apply.

If either the Claimant or the Respondent fail to cooperate with the Complaint Review Committee, such non-cooperation may result in an adverse determination for that person at the hearing.

The hearing must be conducted at a meeting of the Committee held in compliance with the Open Meetings Act. The Committee will attempt to keep the matter confidential to the extent permitted by law. The Committee will generally not discuss the complaint or the investigation with anyone except on a need to know basis.

The Committee will review and consider the testimony and the existence or lack of corroborating evidence, as well as any other factors that may be persuasive to determine the findings of fact. The findings of fact will be based on the testimony and evidence introduced at the hearing. In making its determination, the Committee may assess the credibility of the parties and witnesses, which calls for observing attitudes and behavior. The Committee may base the assessment on factors such as a witness's emotional affect, the timing of the complaint in relation to the occurrence of the behavior, or other factors that may allow for an inference about truthfulness or credibility of the individual involved.

The Committee shall then determine whether a violation of Chapter 27 has occurred based on the factual findings.

#### **E. Preparation of Findings**

The Committee's findings of fact shall be based on the testimony and evidence introduced at the hearing. The Committee shall prepare a written report, including a chronological rendition of the factual findings, the Committee's recommendations, and the rationale for any such recommendations. At a minimum, the report shall contain the following elements:

1. a description of the complaint;
2. a summary of the findings of fact based on the testimony of all parties and witnesses and any documents reviewed;
3. a conclusion as to whether a violation of Chapter 27 occurred and a statement of the supporting rationale; and
4. a statement of the recommended actions to be taken (Section 27-16), including any associated penalties (Section 27-17).

The Committee's recommendations may include, but are not limited to, one or more of the following:

- (a) Ceasing the illegal conduct cited in the complaint and taking steps to alleviate the effect of such illegal conduct;
- (b) Providing that the Respondent apologize to the Claimant;
- (c) Closing the matter based upon a mediation/conciliation agreement of the Claimant and Respondent;
- (d) Admitting the Claimant to a place of public accommodation or extending full and equal use and enjoyment of said place of public accommodation;
- (e) Paying some or all of the Claimant's costs, costs incurred at any stage of review;
- (f) Dismissing the complaint;
- (g) Imposing costs against a Claimant for a frivolously filed claim; and
- (h) Imposing penalties pursuant to Section 27-17.

The findings and recommendations shall be served on the parties involved in a complaint as required by Chapter 27 of the Delta Charter Township Code of Ordinances. The Claimant and Respondent shall have thirty (30) days from the date the findings and recommendations are served to either (1) comply with the findings and recommendations, unless a different time frame is provided by the Complaint Review Committee for compliance, or (2) object to the recommendation to the township board.

**F. Training and Education.** Complaint Review Committee members shall be responsible for attending training workshops, planning conferences or educational programs as needed to properly fulfill Complaint Review Committee duties, and for which appropriations of funds have been approved by the Township Board.

**G. Other Duties and Responsibilities.** The Complaint Review Committee shall perform such other duties and responsibilities as defined by the Township Board or required by state law or Township ordinance, and shall respond as requested to any other matters referred by the Township Board.

**H. Parliamentary Procedure.** The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Committee in all cases to which they are applicable and in which they are not inconsistent with these rules and procedures.

## **SECTION 5**

### **MEETINGS**



All business that the Complaint Review Committee may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, applicable state laws, Township ordinances, and these by-laws and rules of procedure.

**A. Schedule of Regular Meetings.** The Complaint Review Committee shall adopt a schedule of regular meeting dates for the next calendar year at its final regular meeting of the current calendar year. The Complaint Review Committee may schedule and hold regular meetings as deemed necessary to properly perform its duties and complete its work.

**B. Annual Meeting.** The first regular meeting of the Complaint Review Committee in each year shall be known as the Annual Meeting, and shall be for the purpose of electing officers and for any other business.

**C. Special Meetings.** Special meetings may be called by the Chair, or by any two (2) members of the Complaint Review Committee upon written request to the Secretary. The purpose of the meeting shall be stated in the notice.

Public notice of the time, date, and place of the special meeting shall be given in the manner required in the Open Meetings Act. The Chair or Secretary shall send written notice of a special meeting to Committee members not less than 48 hours before the meeting. Electronic transmittal of the notice is acceptable, provided that a record of the transmittal is kept by the Secretary.

**D. Quorum.** Three (3) members of the five (5) member Complaint Review Committee shall constitute a quorum for conducting business. No official action of the Committee may take place without a quorum, except for closing a meeting. All public hearings without a quorum present shall be rescheduled for the next regular or special meeting.

**E. Order of Business.** The Chair shall follow a written agenda for all Committee meetings. Except where modified by the Chair and approved by the Committee, the order of business for Committee meetings shall be as follows:

1. Call to Order
2. Roll Call and Determination of a Quorum
3. Approval of Agenda
4. Approval of Minutes
5. Public Hearings
6. Old Business
7. New Business

8. Public Comments (non-agenda items)
9. Correspondence (non-agenda items)
10. Adjournment

**F. Public Hearings.** Hearings shall be scheduled and due notice given in accordance with Chapter 27 of the Delta Charter Township Code of Ordinances.

The procedures set forth in Section 4 D. herein shall apply to all public hearings conducted by the Complaint Review Committee

**G. Complaint Review Committee Deliberation and Consideration.** Where a public hearing is required by Township ordinance, the Committee shall not deliberate on the complaint until after the hearing has been closed to public comment. The Chair may recognize any Committee member to begin discussion and deliberation on any complaint.

**H. Motions.** Decisions of the Committee shall be based upon applicable ordinance standards, and relevant findings of fact.

At a minimum, Committee motions shall contain the following elements:

- (1) Summary of the complaint, the relevant sections of the Township ordinance deemed to have been violated, and the proposed recommendation.
- (2) Statement of findings of fact and conclusions that support the finding of the violation and the proposed recommendation. Members may choose to make a separate motion identifying relevant findings of fact before making a motion to make recommendations on the complaint.

The Chair shall ensure that all members are clear on the motion, and shall request that the motion be restated if necessary before a vote is taken. The name of the members who made and seconded each motion shall be recorded.

**I. Voting.** Affirmative votes from a majority of the quorum present at the meeting shall be required for the approval of any motion placed before the Committee.

- (1) Voting shall be by roll call vote, except that a voice vote shall be permitted for approval of agendas and minutes, election of officers, meeting adjournment, and similar non-substantive actions.
- (2) Unless a member has been excused from voting due to a conflict of interest, all Committee members present at a meeting shall vote on all matters, with the Chair voting last.
- (3) A member may be excused from voting only if that person has a bona fide conflict of interest, as recognized by the majority of the remaining members of the Committee. Any member abstaining

from a vote shall step away from the Committee table, and shall not participate in discussion or action on the complaint.

**J. Notice of Decisions.** The Secretary shall prepare a written notice of the Committee decision, including the approved motion, findings of fact, and recommendation. The Chair and Secretary shall concur on the accuracy of the notice of the decision before it is served on the parties. Copies of the notice of the decision shall also be provided to the Township Clerk.

**K. Meeting Minutes.** Committee minutes shall be prepared by the Secretary of the Committee. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the findings and recommendations made on any action; and recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the Township Clerk upon approval by the Committee.

## **SECTION 6**

### **EXPENDITURES**

All expenditures of the Committee shall be within the amount appropriated for Committee purposes by the Township Board.

## **SECTION 7**

### **PARLIAMENTARY AUTHORITY**

The parliamentary rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Complaint Review Committee as applicable and consistent with these rules and procedures.

## **SECTION 8**

### **ADOPTION AND AMENDMENT OF PROCEDURES AND RULES**

These procedures and rules may be amended from time to time by the Township Board by a majority vote thereof, provided that the amendment has been submitted in writing prior to the meeting for which a vote will be held on the amendment.

THESE PROCEDURES AND RULES WERE DULY ADOPTED BY A MAJORITY VOTE OF THE DELTA TOWNSHIP BOARD DURING ITS REGULAR MEETING HELD ON OCTOBER 21, 2013.

## OPEN MEETINGS ACT

### Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

The People of the State of Michigan enact:

#### **15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.**

Sec. 1.

(1) This act shall be known and may be cited as the "Open meetings act".

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

#### **15.262 Definitions.**

Sec. 2.

As used in this act:

(a) "Public body" means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(c) "Closed session" means a meeting or part of a meeting of a public body that is closed to the public.

(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

**15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; COVID-19 safety measures; tape-recording, videotaping, broadcasting, and telecasting proceedings; accommodation of absent members; remote attendance; rules; exclusion from meeting; exemptions.**

Sec. 3.

(1) All meetings of a public body must be open to the public and must be held in a place available to the general public. All persons must be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting. For a meeting of a public body held in person before April 1, 2021, the public body shall do both of the following:

(a) To the extent feasible under the circumstances, ensure adherence to social distancing and mitigation measures recommended by the Centers for Disease Control and Prevention for purposes of preventing the spread of COVID-19, including the measure that an individual remain at least 6 feet from anyone from outside the individual's household.

(b) Adopt heightened standards of facility cleaning and disinfection to limit participant exposure to COVID-19, as well as protocols to clean and disinfect in the event of a positive COVID-19 case in the public body's meeting place.

(2) All decisions of a public body must be made at a meeting open to the public. For purposes of any meeting subject to this section, except a meeting of any state legislative body at which a formal vote is taken, the public body shall, subject to section 3a, establish the following procedures to accommodate the absence of any member of the public body due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person:

(a) Procedures by which the absent member may participate in, and vote on, business before the public body, including, but not limited to, procedures that provide for both of the following:

(i) Two-way communication.

(ii) For each member of the public body attending the meeting remotely, a public announcement at the outset of the meeting by that member, to be included in the meeting minutes, that the member is in fact attending the meeting remotely. If the member is attending the meeting remotely for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting remotely.

(b) Procedures by which the public is provided notice of the absence of the member and information about how to contact that member sufficiently in advance of a meeting of the public body to provide input on any business that will come before the public body.

(3) All deliberations of a public body constituting a quorum of its members must take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person must not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person must be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person must not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies, but only when deliberating the merits of a case:

(a) The Michigan compensation appellate commission operating as described in either of the following:

(i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.

(ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.

(b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.

(c) The employment relations commission or an arbitrator or arbitration panel created or appointed under 1939 PA 176, MCL 423.1 to 423.30.

(d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, if the resolution is not adopted at a meeting.

(10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.

(11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection must be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

(12) As used in subsection (2):

(a) "Formal vote" means a vote on a bill, amendment, resolution, motion, proposal, recommendation, or any

other measure on which a vote by members of a state legislative body is required and by which the state legislative body effectuates or formulates public policy.

(b) "Medical condition" means an illness, injury, disability, or other health-related condition.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981 ;-- Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986 ;-- Am. 1988, Act 158, Imd. Eff. June 14, 1988 ;-- Am. 1988, Act 278, Imd. Eff. July 27, 1988 ;-- Am. 2016, Act 504, Eff. Apr. 9, 2017 ;-- Am. 2018, Act 485, Eff. Mar. 29, 2019 ;-- Am. 2020, Act 228, Imd. Eff. Oct. 16, 2020 ;-- Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020*  
*Admin Rule: R 35.621 of the Michigan Administrative Code.*

**15.263a Electronic public meetings; telephonic or video conferencing; "agricultural commodity group" defined; permissibility under certain circumstances; 2-way communication required; advance notice of electronic meetings; availability of agenda; registration requirement prohibited; remote participation limited to military duty or medical condition.**

Sec. 3a.

(1) A meeting of a public body held, in whole or in part, electronically by telephonic or video conferencing in compliance with this section and, except as otherwise required in this section, all of the provisions of this act applicable to a nonelectronic meeting, is permitted by this act in the following circumstances:

(a) Before March 31, 2021 and retroactive to March 18, 2020, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2).

(b) Subject to subdivision (d), on and after March 31, 2021 through December 31, 2021, only those circumstances requiring accommodation of absent members described in section 3(2). For the purpose of permitting an electronic meeting due to a local state of emergency or state of disaster, this subdivision applies only as follows:

(i) To permit the electronic attendance of a member of the public body who resides in the affected area.

(ii) To permit the electronic meeting of a public body that usually holds its meetings in the affected area.

(c) Subject to subdivisions (d), (e), and (f), after December 31, 2021, only in the circumstances requiring accommodation of members absent due to military duty as described in section 3(2).

(d) On and after March 31, 2021, for a public body that is an agricultural commodity group, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2). As used in this subdivision, "agricultural commodity group" means any of the following:

(i) A committee as that term is defined in section 2 of the agricultural commodities marketing act, 1965 PA 232, MCL 290.652.

(ii) The state beef industry commission created in section 3 of the beef industry commission act, 1972 PA 291, MCL 287.603.

(iii) The potato industry commission created in section 2 of 1970 PA 29, MCL 290.422.

(iv) The Michigan bean commission created in section 3 of 1965 PA 114, MCL 290.553.

(e) On and after the effective date of the amendatory act that added this subdivision, for a public body that is responsible for the investment, administration, or management of a municipal public employee retirement sys-

tem, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2). As used in this subdivision, "municipal public employee retirement system" means a retirement system as that term is defined in section 3 of the protecting local government retirement and benefits act, 2017 PA 202, MCL 38.2803. A public body that is eligible to meet remotely under this subdivision shall set and publish an attendance policy that includes the determination of a quorum with 1 or more members participating electronically.

(f) On and after the effective date of the amendatory act that added this subdivision, for a public body that is a joint agency formed under article 3 of the Michigan energy employment act of 1976, 1976 PA 448, MCL 460.831 to 460.848, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2). As used in this subdivision, "joint agency" includes a joint agency's board of commissioners and any committee of the joint agency.

(2) A meeting of a public body held electronically under this section must be conducted in a manner that permits 2-way communication so that members of the public body can hear and be heard by other members of the public body, and so that public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. A public body may use technology to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the public body and other participants to satisfy the requirement under this subsection that members of the public be heard by others during the electronic meeting and the requirement under section 3(5) that members of the public be permitted to address the electronic meeting.

(3) Except as otherwise provided in subsection (8), a physical place is not required for an electronic meeting held under this section, and members of a public body and members of the public participating electronically in a meeting held under this section that occurs in a physical place are to be considered present and in attendance at the meeting for all purposes.

(4) If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, in addition to any other notices that may be required under this act, post advance notice of a meeting held electronically under this section on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of nonregularly scheduled or electronic public meetings. Subject to the requirements of this section, any scheduled meeting of a public body may be held as an electronic meeting under this section if a notice consistent with this section is posted at least 18 hours before the meeting begins. Notice of a meeting of a public body held electronically must clearly explain all of the following:

(a) Why the public body is meeting electronically.

(b) How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically.

(c) How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(d) How persons with disabilities may participate in the meeting.



(5) Beginning on October 16, 2020, if an agenda exists for an electronic meeting held under this section by a public body that directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, on a portion of the website that is fully accessible to the public, make the agenda available to the public at least 2 hours before the electronic meeting begins. This publication of the agenda does not prohibit subsequent amendment of the agenda at the meeting.

(6) A public body shall not, as a condition of participating in an electronic meeting of the public body held under this section, require a person to register or otherwise provide the person's name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting.

(7) Members of the general public otherwise participating in a meeting of a public body held electronically under this section are to be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of this act applicable to a closed session.

(8) At a meeting held under this section that accommodates members absent due to military duty or a medical condition, only those members absent due to military duty or a medical condition may participate remotely. Any member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate. This subsection does not apply to a meeting of a public body held electronically under subsection (1)(d), (e), or (f).

*History: Add. 2020, Act 228, Imd. Eff. Oct. 16, 2020 ;-- Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020 ;-- Am. 2021, Act 54, Imd. Eff. July 13, 2021 ;-- Am. 2023, Act 214, Eff. Feb. 13, 2024*

#### **15.264 Public notice of meetings generally; contents; places of posting.**

Sec. 4.

The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984*

**15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; posting; statement of date, time, and place; website; recess or adjournment; emergency sessions; emergency public meeting; meeting in residential dwelling; limitation; notice; duration requirement.**

Sec. 5.

(1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. The public notice on the website shall be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those nonregularly scheduled public meetings. The requirement of 18-hour notice does not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting.

(5) A meeting of a public body that is recessed for more than 36 hours shall be reconvened only after public notice that is equivalent to that required under subsection (4) has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section bars a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat. However, if a public body holds an emergency public meeting that does not comply with the 18-hour posted notice requirement, it shall make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice shall include an explanation of the reasons that the public body cannot comply with the 18-hour posted notice requirement. The explanation shall be specific to the circumstances that necessitated the emergency public meeting, and the use of generalized explanations such as "an imminent threat to the health of the public" or "a danger to public welfare and safety" does not meet the explanation requirements of this subsection. If the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, it shall post the public notice of the emergency meeting and its explanation on its website in the manner described for an internet posting in subsection (4). Within 48 hours after the emergency public meeting, the public body shall send official correspondence to the board of county commissioners of the county in which the public body is principally located, informing the commission that an emergency public meeting with less than 18 hours' public notice has tak-

en place. The correspondence shall also include the public notice of the meeting with explanation and shall be sent by either the United States postal service or electronic mail. Compliance with the notice requirements for emergency meetings in this subsection does not create, and shall not be construed to create, a legal basis or defense for failure to comply with other provisions of this act and does not relieve the public body from the duty to comply with any provision of this act.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body that is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice shall be at the bottom of the display advertisement, set off in a conspicuous manner, and include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

(7) A durational requirement for posting a public notice of a meeting under this act is the time that the notice is required to be accessible to the public.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1978, Act 256, Imd. Eff. June 21, 1978 ;-- Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982 ;-- Am. 1984, Act 167, Imd. Eff. June 29, 1984 ;-- Am. 2012, Act 528, Imd. Eff. Dec. 28, 2012*

#### **15.266 Providing copies of public notice on written request; fee.**

Sec. 6.

(1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

#### **15.267 Closed sessions; roll call vote; separate set of minutes.**

Sec. 7.

(1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1993, Act 81, Eff. Apr. 1, 1994 ;-- Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996*

## **15.268 Closed sessions; permissible purposes; applicability to independent citizens redistricting commission.**

### Sec. 8.

(1) Except as otherwise provided in subsection (2), a public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named individual requests a closed hearing. An individual requesting a closed hearing may rescind the request at any time, in which case the matter at issue must be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office must be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted under section 16231 of the public health code, 1978 PA 368, MCL 333.16231, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number does not constitute a quorum of the governing board. However, the search committee must not be constituted in such a way that any 1 of the groups described in this subparagraph

constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

(k) For a school board to consider security planning to address existing threats or prevent potential threats to the safety of the students and staff. As used in this subdivision, "school board" means any of the following:

(i) That term as defined in section 3 of the revised school code, 1976 PA 451, MCL 380.3.

(ii) An intermediate school board as that term is defined in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

(iii) A board of directors of a public school academy as described in section 502 of the revised school code, 1976 PA 451, MCL 380.502.

(iv) The local governing board of a public community or junior college as described in section 7 of article VIII of the state constitution of 1963.

(l) For a county veteran services committee to interview a veteran or a veteran's spouse or dependent regarding that individual's application for benefits or financial assistance and discuss that individual's application for benefits or financial assistance, if the applicant requests a closed hearing. This subdivision does not apply to a county veteran services committee voting on whether to grant or deny an individual's application for benefits or financial assistance. As used in this subdivision, "county veteran services committee" means a committee created by a county board of commissioners under section 1 of 1953 PA 192, MCL 35.621, or a soldiers' relief commission created under section 2 of 1899 PA 214, MCL 35.22.

(2) This act does not permit the independent citizens redistricting commission to meet in closed session for any purpose. As used in this subsection, "independent citizens redistricting commission" means the independent citizens redistricting commission for state legislative and congressional districts created in section 6 of article IV of the state constitution of 1963.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1984, Act 202, Imd. Eff. July 3, 1984 ;-- Am. 1993, Act 81, Eff. Apr. 1, 1994 ;-- Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996 ;-- Am. 2018, Act 467, Eff. Mar. 27, 2019 ;-- Am. 2021, Act 31, Imd. Eff. June 24, 2021 ;-- Am. 2021, Act 166, Imd. Eff. Dec. 27, 2021*

*Compiler's Notes: Enacting section 1 of Act 166 of 2021 provides: "Enacting section 1. This amendatory act is intended to clarify that the independent citizens redistricting commission for state legislative and congressional districts, since its establishment under section 6 of article IV of the state constitution of 1963, has been required to conduct all of its business at open meetings, without exception and in a manner that invites wide public participation throughout this state, as provided in section 6(10) of article IV of the state constitution of 1963, and that the commission continues to be subject to this unqualified open meetings requirement."*

## **15.269 Minutes.**

### **Sec. 9.**

(1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members

absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.

(3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.

(4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

*History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982 ;-- Am. 2004, Act 305, Imd. Eff. Aug. 11, 2004*

#### **15.269a Sound recordings of public meetings.**

Sec. 9a.

(1) Every meeting of a public body that is a state licensing board, state commission panel, or state rule-making board, except a meeting or part of a meeting held in closed session, must be recorded in a manner that allows for the capture of sound, including, without limitation, in any of the following formats:

- (a) A sound-only recording.
- (b) A video recording with sound and picture.
- (c) A digital or analog broadcast capable of being recorded.

(2) A recording required under subsection (1) must be maintained for a minimum of 1 year from the date of the meeting in a format that can be reproduced upon a request under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

*History: Add. 2022, Act 63, Eff. Mar. 29, 2023*

#### **15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.**

Sec. 10.

(1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

**15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.**

Sec. 11.

(1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

**15.272 Violation as misdemeanor; penalty.**

Sec. 12.

(1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

**15.273 Violation; liability.**

Sec. 13.

(1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

*History: 1976, Act 267, Eff. Mar. 31, 1977*

**15.273a Selection of president by governing board of higher education institution; violation; civil fine.**

Sec. 13a.

If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than \$500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

*History: Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996*

**15.274 Repeal of MCL 15.251 to 15.253.**

Sec. 14.

Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.



## Meeting Minutes

To provide for a uniform method of handling committee minutes, the Committee shall prepare written minutes that are to be submitted to the Township Clerk in a timely manner.

1. The Township will provide a staff member to facilitate the preparation of agendas and minutes.
2. The committee will formally approve the minutes at their next meeting.
3. The committee shall comply with the Open Meetings Act.

*“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”*

*~~Margaret Mead*

## Important Information

1. All members of the Committee shall be sworn in by the Township Clerk.
2. Per Diem - Members of the Non-Discrimination Complaint Review Committee shall receive a per diem of \$50.00 per attended meeting.
3. Ethics Policy - All members of the Committee shall receive training on the Township's Ethics Policy and sign an Ethics Policy Acknowledgement form annually.
4. All members shall complete and return a W-9 to the Township Manager or his/her designee.
5. The Township Manager or designee shall provide the Accounting Department with a quarterly attendance report to facilitate payment to committee members.
6. Phone numbers and email addresses:

### **Complaint Review Committee**

Andrea Kincaide	517-719-7880	akincaide@aol.com
Barbara Poma	517-323-1967	pomainc@sbcglobal.net
Jerry Slade	517-819-8818	jerryslade@att.net
Katherine Talbot	517-290-8085	ketalbot@hotmail.com
Ananda Worden	517-420-7789	Wordena7@gmail.com

### **Township Staff**

Brian Reed, Township Manager	517-323-8590	Breed@deltami.gov
Erin LaPere, Deputy Manager	517-323-8590	elapere@deltami.gov
Wendy Yaney, HR Generalist	517-323-8590	wyaney@deltami.gov



# DELTA

## T O W N S H I P

It is the intent of the Township that no person be denied equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental limitation, source of income, familial status, sexual orientation, or gender identity/expression. It is also the intent of the Township to preserve the rights of religious organizations granted to religious organizations by Michigan and Federal law.

# Ethics Policy Acknowledgment

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It is the intent of the Ethics Policy that a public servant shall avoid any action which might result in or create the appearance of using public office or employment for private gain, giving improper preferential treatment to any person or organization, impeding government efficiency or economy, a lack of independence or impartiality of action, making a government decision outside of official channels, or affecting adversely the confidence of the public in the integrity of the township.

## **Prohibited Conduct**

All public servants are prohibited from engaging in the following conduct:

1. Divulging confidential information to any person not authorized to obtain such information.
2. Benefitting financially from confidential information.
3. Representing his or her individual opinion as that of the township.
4. Act on behalf of the township in the making of policy statements, in authorizing any action, agreement or contract, or in promising to prevent any future action, when such public servant has, in fact, no authority to do so.
5. Misusing township personnel resources, property, funds, or assets for personal gain.
6. Soliciting or accepting a gift or loan of money, goods, services, or other things of value which tend to influence the manner in which the public servant performs his or her official duties.
7. Engaging in a business transaction which may cause the public servant to derive a personal profit or gain directly or indirectly as a result of his or her official position.
8. Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties or that tend to impair his or her independence of judgment.
9. Participating in contracts, loans, grants, rate-fixing, or issuing permits involving a business entity in which he or she has a substantial interest.

## **Conflict of Interest – Duty to Disclose**

Where there is any question concerning a conflict of interest, even though it may not exist in actuality, the particular situation shall be disclosed in writing.

Name: \_\_\_\_\_  
(Please print)

Position as public servant: \_\_\_\_\_

Please disclose any actual or potential conflict of interest arising through employment or other financial interest that you or a relative, as defined by the Ethics Policy, which may give rise to a possible conflict of interest or might result in or create the appearance of using your position as a public servant to influence the decisions of any public body.

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I acknowledge that I have read and understood the Delta Township Ethics Policy and that I have fully disclosed any possible conflict of interest to the best of my ability.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

## Delta Township Compiled Policy Manual

<b>Title:</b>	<b>Delta Township Ethics Policy</b>
<b>Adoption Date:</b>	<b>July 20, 2009</b>
<b>Revision Date:</b>	

**General Purpose:** To establish a code of ethics for public servants of the Charter Township of Delta that is applicable to all persons in the Township's service, whether compensated or not.

**Summary Statement of Policy:** It is the intent of this policy that a public servant shall avoid any action which might result in or create the appearance of using public office, position or employment for private gain, giving improper preferential treatment to any person or organization, impeding government efficiency or economy, exhibiting a lack of independence or impartiality of action, making a government decision outside of official channels, or affecting adversely the confidence of the public in the integrity of the Township.

**Actual Policy as written:**

### Definitions

Whenever in this policy the following terms are used, they shall have the meanings described to them as follows:

1. Business entity – A business entity includes a corporation, limited liability company, partnership, sole proprietorship, joint venture, unincorporated association, trust, or other business form.
2. Township – The Charter Township of Delta, a Michigan Municipal corporation.
3. Interest – any right, title, or share in something, personal, financial, legal, or equitable, which is owned, held or controlled, in whole or part, directly or indirectly, by a public servant.
4. Public Servant – A member of the Township board, the Township manager, a director, full or part-time Township employees and any person elected or appointed to any public body of the Township.
5. Public Body – The Township board, and any board, authority, commission, committee, department, office, or other agency of the Township, and including the Township.
6. Compensation – Any money, thing of value, or other compensatory or pecuniary benefit received or to be received in return for, or as a reimbursement for, services rendered or to be rendered.
7. Relative – A spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, first cousin, niece, nephew, corresponding in-law or “step” relation.
8. Ethics Policy – This policy.

### **Public Policy**

It is hereby declared to be the policy of the Charter Township of Delta that all public servants must avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and the integrity and impartiality of all public servants, it is necessary that adequate rules be provided for separating their roles as private citizens from their roles as public servants. Where government is based upon the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his/her government.

It is not the intent of this policy to, in any way, limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as such action does not provide a benefit, which is defined as a benefit not otherwise generally available to others, to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated Township residents.

No public servant shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All public servants shall treat all citizens of the Township with courtesy, impartiality, fairness, and equality under the law.

No public servant shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, material, labor or service, or money, for the personal convenience or the private advantage of one's self or of any other person. This requirement shall not be deemed to prevent any public servant from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service which is made available by general practice, to the public at large, or which is provided, as a matter of public policy for the use of public servants in the conduct of official business, as approved consideration for their services to the Township.

### **Disclosure of Conflicts of Interest, Actual and Potential**

In connection with any actual or potential conflict of interest, the following requirements are established with this policy:

1. Business Transactions - No public servant, either on his or her behalf or on behalf of any other person, shall have an interest in any business transaction with any public body of the Township, unless the person shall first make full public disclosure of the nature of such interest, and comply with the requirements of Act 317 of 1968, as amended, MCL 15.321 et seq.
2. Proposed Legislation or Pending Decisions – Any public servant of the Township who has an interest in any proposed legislation or decision pending before any body of which the public servant is a member shall publicly disclose on the official records of the body, the nature and extent of such interest prior to any vote or official action on the matter. The member shall be excused from voting on the matter if excused by the unanimous consent of the other members present.

3. Perceived Conflicts of Interest – A member considered to have a conflict of interest shall publically disclose the nature and extent of the potential conflict of interest on the official records of the body prior to any vote or official action on the matter. The member shall be excused from voting on the matter if excused by the unanimous consent of the other members present.
4. Dual Employment – No public servant shall engage in employment with any other agency or department of the Township. No public servant shall render services for private interest, when such employment or service is in conflict with or is incompatible with the proper discharge of his/her duties.

Appointees to multi-member boards or commissions, whether paid or unpaid, shall disclose any financial, business, commercial, contractual or other private transaction interest prior to any official action or vote taken, for which the appointee's vote or other official action is in conflict with or is incompatible with the interests of the Township.

5. Dual Representation – A public servant shall make full public disclosure of business involving the Township when attempting to use his or her official position to secure special privileges or exemptions for self or others, and shall comply with Section 1 and 3 above.
6. Familial Interest - Any public servant whose has an interest in any proposed legislation or decision pending before any body of which the public servant is a member shall publicly disclose on the official records of the body, the nature and extent of such interest prior to any vote or official action on the matter. The members shall be excused from voting on the matter if excused by the unanimous consent of the other members present.
7. Disclosure Statement – Each public servant shall annually sign a disclosure statement which will address conflicts of interest, actual and potential as described in items 1 through 6 of this section. The disclosure statement shall include the date, month, and year, the name, address, and public position held by the public servant. The purpose of such statement will be to remind public servants of those financial interests that might impair their judgment on behalf of the public; informs the public of those interests; and, assists in instilling confidence in the actions of public servants.

#### **Offer or Acceptance of Gifts or Favors**

No public servant, whether paid or unpaid, shall solicit or accept, or give anything of such value which could be interpreted to influence a vote, decision, or other exercise of official authority in any matter involving the Township and does not create the appearance that the public servant is using their position for personal gain. Nothing in this section is intended to preclude campaign contributions which comply with state and federal law.

Gifts to the Township: Nothing in this policy shall prohibit any official or appointee from accepting a gift on behalf of the Township, providing the person accepting the gift shall promptly

report the receipt of such gift to the finance department, for the purpose of adding the inventory of property to the Township.

**Meals and Entertainment:** The Township recognizes that its public servants may, from time to time, attend functions as representatives of the Township where meals and entertainment are provided as part of a business related function. When representing the Township at a business related function, public servants may accept meals and entertainment valued at less than one hundred dollars (\$100.00) so long as: (1) acceptance of the meal or entertainment does not violate any other section of this policy; (2) acceptance of the meal or entertainment does not create the appearance that the public servant is using their position for personal gain; and, (3) the meal or entertainment is available to other attendees of the business related function. Public servants may exceed the one hundred dollar (\$100.00) limit as long as they seek prior approval from the Township Manager. In turn, the Township Manager shall seek prior approval to exceed the one hundred dollar (\$100.00) limit from the Township Supervisor. Township Board members shall seek prior approval to exceed the one hundred dollar (\$100.00) limit from the Township Board.

### **Prohibited Conduct**

All public servants are prohibited from engaging in the following conduct:

1. Divulging confidential information to any person not authorized to obtain such information.
2. Benefitting financially from confidential information.
3. Representing his or her individual opinion as that of the Township.
4. Act on behalf of the Township in the making of policy statements, in authorizing any action, agreement or contract, or in promising to prevent any future action, when such public servant has, in fact, no authority to do so.
5. Misusing Township personnel resources, property, funds, or assets for personal gain.
6. Soliciting or accepting a gift or loan of money, goods, services, or other things of value which tend to influence the manner in which the public servant performs his or her official duties, except as allowed under Offer or Acceptance of Gifts or Favors, herein.
7. Engaging in a business transaction which may cause the public servant to derive a personal profit or gain directly or indirectly as a result of his or her official position, except as allowed under Disclosure of Conflicts of Interest, Actual and Potential, herein.
8. Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties or that tend to impair his or her independence of judgment.
9. Participating in contracts, loans, grants, rate-fixing, or issuing permits involving a business entity in which he or she has an interest, except as allowed under Disclosure of Conflicts of Interest, Actual and Potential, herein.

### **Employment of Relatives**

Delta Township permits the employment of qualified relatives of employees as long as such employment does not create actual or perceived conflicts of interest. The Township will exercise



sound business judgment in the placement of related employees in accordance with the following guidelines:

1. The Township shall not hire a relative of the Township Manager, the Human Resources Generalist, a Department Director, or any member of the Township Board.
2. Individuals who are related by blood or marriage are permitted to work in the same facility, provided no direct reporting or supervisory/management relationship exists. That is, no employee is permitted to work within the "chain of command" of a relative such that one relative's work responsibilities, salary, discipline or career progress could be influenced by the other relative.
3. No relatives are permitted to work in the same department or any other positions in which the Township Manager believes an inherent conflict of interest may exist.
4. Employees who marry while employed are treated in accordance with these guidelines. That is, if, a conflict or an apparent conflict arises as the result of the marriage, one of the employees will be transferred at the earliest practical time.

This policy applies to all categories of Township employment at with the exception of temporary election workers.

An applicant or employee of the Township shall notify the Township in either the application for employment, in the case of an applicant, or in writing to the Township Manager, if presently employed by the Township, of such a relationship.

### **Public Workplace Environment**

Public servants shall support the maintenance of a positive and constructive workplace environment for other public servants and for citizens and businesses dealing with the Township. Public servants shall recognize their special role in dealings with each other, Township residents, and businesses dealing with the Township so as to in no way create the perception of inappropriate conduct during the course of their work. It is the policy of the Township to ensure that all public servants conduct themselves in a manner that fosters public confidence in the integrity of the Township, its processes, and its accomplishments.

### **Public Disclosure**

Whenever a public disclosure is required by this policy, it may be made orally on the record at a meeting of the public body involved, or in a writing filed with the presiding officer, or if the conflicted official is the presiding officer, the clerk. In both cases it shall be made a part of the record of a regular Township board meeting, and in either event, where applicable, shall include:

1. The identity of all persons involved in the interest.
2. The source and amount of income derived from the interest that may be considered as resulting from employment, investment or gift. The person required to file a disclosure statement in accordance with this policy must verify, in writing, under penalty of perjury, the information in the statement is true and complete as far as he or she knows.
3. Any disclosures required by Act 317 of 1968, as amended, MCL 15.321 et seq.

#### 4. **Compliance and Enforcement**

This Ethics Policy expresses the standards of ethical conduct expected for public servants of the Township. Each public servant has the responsibility to ensure that they understand and meet the ethical standards expressed in this policy. This policy shall be included in the regular orientations for all new public servants. A statement affirming that that have read and understood the Ethics Policy shall be signed by all public servants.

Any individual who believes that a violation exists as prohibited by this policy may make a complaint which shall be a signed, written formal complaint to the Township Board, who shall cause same to be investigated by controlling authority as follows:

1. Elected and appointed public servants of the Township to the Township supervisor. In matters concerning the Township manager to the Township supervisor. In matters concerning the Township supervisor, to Township clerk.
2. Employees, full and part-time, of the Township to the Township manager.

The above listed authorities shall take appropriate action upon any complaint or request for information concerning the code of ethics of the Township. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved, which may include but is not limited to any of the following:

1. Referral of the matter to a Township attorney;
2. Pursuing further investigation by the controlling authority;
3. Recommending appropriate disciplinary action, including removal from appointed position or employment, in accordance with the regulations or policies of the Township or the requirements of any collectively bargained agreement;
4. Deeming no action be taken and/or,
5. Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.

The above listed controlling authorities may render written advisory opinions, when deemed appropriate, interpreting the code of ethics as set forth in this policy.

#### **Acknowledgement of Ethics Policy and Annual Training**

Upon initial adoption of the Ethics Policy, all existing public servants will receive a copy and shall sign an acknowledgment of receipt of same. Thereafter, a statement acknowledging the Ethics Policy shall be completed on an annual basis by all public servants.

1. New employees shall be provided a copy of the policy at the time of orientation.
2. Newly elected/appointed public servants shall receive a copy at the time of taking office or appointment.
3. The Human Resources Generalist shall be responsible for providing mandatory annual training for all employees of the Township.
4. Acknowledgments of initial receipt and annual acknowledgments shall be filed with the Human Resources Generalist and remain in effect until a party is no longer a public servant.