



Charter Township of Oscoda

110 South State Street

Oscoda, Michigan 48750

Office of Supervisor: (989)739-3211

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## ORDINANCE NUMBER 2022-271

AN ORDINANCE TO AMEND THE OSCODA TOWNSHIP CODE OF ORDINANCES  
TO ADD A CODE OF ETHICS

THE CHARTER TOWNSHIP OF OSCODA ORDAINS:

### **PART I. CODE OF ETHICS**

**1.01. Purpose.** The proper operation of democratic government requires that elected and appointed township officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals there is hereby established a code of ethics for all township officials and employees. The purpose of this code is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the township and by directing disclosure by such officials and employees of a financial interest in matters affecting or involving the township. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the Township of Oscoda.

### **1.02. Definitions.**

*Township official* means a person elected, appointed or otherwise serving in any capacity with the township in any position established by the Charter Township Act or by township ordinance, other than as an employee.

*Compensation* means money, property, or anything of value or benefit.

*Employee* means a person hired by the township, whether on a full-time, part-time, temporary or irregular basis.

*Financial interest* means any of the following: (a) receipt of, entitlement to, or promise of compensation; (b) an ownership interest in real or personal property (c) status as a partner, member, employee, consultant, contractor or agent of or for a partnership or any other unincorporated entity; (d) status as a beneficiary or trustee in or of a trust; (e) status as a director, officer, employee, consultant, contractor or agent of or for a corporation; and (f) legal or beneficial ownership of 5% or more of the total outstanding stock of a corporation. A township official and employee shall be deemed to have a financial interest if a relative of any official or employee has a financial interest.

*Gift* means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, personal items, and honoraria for speaking engagements.

*Relative* means a township official or employee, his or her spouse, domestic partner, siblings, parents, grandparents, children, or step-children.

*Official duty or official action* means a decision, recommendation, approval, disapproval or other action or failure to act by a township official or employee.

### **1.03. Responsibilities of Public Office and Employment.**

- (a) Township officials and employees are agents of public purpose and hold office or employment for the benefit of the public. They are bound to observe in the performance of their official duties and actions the highest standards of morality and to discharge faithfully the duties of their office or employment regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.
- (b) All township officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons with whom they have contact, and in the performance of their official duties, and by avoiding conduct which may tend to undermine respect for township officials and employees and for the township as a public body.
- (c) Township officials and employees of the municipality should be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives and should adhere to the rules of conduct and/or work and performance established as the standard for their positions.

- (d) Township officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- (e) Township officials and employee shall not grant any special consideration, treatment, or Information acquired in one's public position will not be used for personal advantage.
- (f) Township officials and employees shall comply with the applicable provisions of state law related to conflicts of interest and state laws regulating the conduct of public officials and employees.
- (g) Township officials and employees shall not request or permit the use of township-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.
- (h) Because of the value of the independent advice of boards, commissions and committees to the public decision-making process, members of the township board shall refrain from using their position to unduly influence the deliberations, outcomes or recommendations of board, commissions and committee proceedings.

#### **1.04. Political Activity.**

- (a) Township employees are prohibited from engaging in campaign activities using township property or engaging in such activity during working hours and shall comply with the Political Activities by Public Employees Act, Public Act 169 of 1976, MCL 15.401 et seq., as amended.
- (b) Elected township officials are prohibited from soliciting township employees to work on political campaign activities using township property or during working hours and shall comply with the Michigan Campaign Finance Act, Public Act 388 of 1976, MCL 169.201 et seq., as amended.
- (c) Township officials and employees shall not use any township time or property for their own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid.

#### **1.05. Conflict of Interest.**

- (a) No township official or employee, whether paid or unpaid, shall engage in any business or transaction or have a financial interest (as defined in section 1.02), direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(b) Examples of conflicts of interest are enumerated below for the guidance of officials and employees:

1. *Incompatible employment or service.* No township official or employee shall engage in or accept private employment or render services in any capacity including, but not limited to as a consultant, contractor or agent, to an individual or entity when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his official duties.
2. *Disclosure of confidential information.* No township official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the township. Nor shall he or she use such information to advance the financial interest of himself or herself or others, including relatives.
3. *Gifts and favors.* No township official or employee shall accept any gift (as defined in section 1.02), from any person who, or entity which, to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the township; nor shall any such official or employee:
  - a. Accept any gift, favor, or thing of value that may tend to influence him or her in the discharge of his or her duties; or
  - b. Grant in the discharge of his or her duties any improper favor, service, or thing of value.

Any individual, institution, corporation, organization or service club wishing to bestow a gift, grant, or service to the township or any of its component departments shall make a request for such bestowal at a regularly scheduled meeting of the township board.

4. *Representing private interest before township agencies or courts.* No township official or employee shall appear on behalf of private interests before any agency of the township. No township official or employee shall represent private interests in any action or proceeding against the interests of the township in any litigation to which the township is a party.
5. *Contracts with the township.*
  - a. Except as provided in Sections 3 and 3a of Act 317 of 1968 (Contracts of Public Servants with Public Entities), a township official or employee shall not be a party, directly or indirectly, to any contract between himself or herself and the township.
  - b. Except as provided in Section 3 of Act 317 of 1968, a township official or employee shall not directly or indirectly solicit any contract:

- i. Between the township and him or herself;
  - ii. Between the township and any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee;
  - iii. Between the township and any private corporation in which he or she is a stockholder owning more than one percent of the total outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer or employee; or
  - iv. Between the township and any trust in which he or she is a trustee or beneficiary.
- c. In regard to a contract described in subsections (b)(5)b.i-iv above, a township official or employee shall not do either of the following:
- i. Take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract, or
  - ii. Represent either party in the transaction.

*6. Official duties; official actions.*

- a. With respect to matters not involving a contract covered by subsection (b)(5) above, a township official shall not vote on or participate in discussions on a matter before the township board which involves an entity, property or an issue in which the official has a financial interest, or if the official has a financial interest in the outcome of the matter before township board. For example, an official should not discuss or vote on whether or not to:
  - i. Condemn, sell, grant a variance, or otherwise affect property; or
  - ii. Waive a fee or grant a license; or
  - iii. Approve legislation, with respect to an entity, property or with respect to an issue in which the official has a financial interest.
- b. A township employee shall not make a recommendation, take any action or make any decision on any matter within the scope of his/her official duties with respect to which he has a financial interest.

*7. Personal opinions.* No township official or employee of the township shall represent his or her personal opinion as that of the township.

8. *Business transactions.* No township official or employee shall engage in any business or transaction in which he or she or a relative may directly or indirectly benefit financially because of his or her official position or because of receipt of confidential information which he or she has obtained by reason of such position or authority.
  9. *Preferential treatment.* No township official or employee shall use, or attempt to use, his or her official position to secure, request or grant any compensation, privilege, exemption, advantage, or treatment for himself, herself, or others, beyond that which is available to every other citizen.
  10. *Township official's own conduct.* No township official shall vote on any questions involving the official's own conduct including those of recusal and discipline.
- (c) It is recognized that various boards and committees are part of the plan of government for the township. As such, it is further recognized that by virtue of the various requirements for board membership, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial interest. Therefore, those members of the various boards and committees in the township, as they may be established from time to time, shall refrain from participating in any discussion, voting or taking any action with respect to a matter that may, directly or indirectly, affect his or her financial interest.
- (d) No township official or employee shall acquire any financial interest in or accept any employment with or render any services in any capacity including, but not limited to, as a consultant, contractor or agent, with any entity which, or person who either:
1. Has entered into a contract with the township, or
  2. Was the subject of a matter voted on by the township board (for example, as described in subsection (b)6.a. above), within one year of the officer's or employee's participation in any manner in considering, recommending or voting on the approval or disapproval of said contract or matter.
- (e) Duty to disclose financial interest.
1. *Township official.* When a matter before the township board involves an entity, property or issue in which a township official has a financial interest, or if a township official has a financial interest in the outcome of a matter before the board which is different from that of the general public, the official shall disclose the full nature and extent of his or her financial interest on the appropriate record of the township prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, except as allowed under PA 317 of 1968.
  2. *Township employee.* When a township employee has a financial interest in a matter involving the employee's official duties or in which the employee would be

taking an official action, the employee shall disclose the nature and extent of his or her financial interest to the Superintendent and shall refrain from participating in any discussion or action thereon.

3. *Board member.* When a member of any township board, commission or committee has a financial interest in a matter before the board, commission or committee on which the member sits, the member shall disclose the nature and extent of such interest on the record of the board, commission or committee.
- (f) *Referral to board of ethics.* If a township official, employee or member of a board, commission or committee fails to disclose a financial interest, or who has a conflict of interest, as defined herein, in any matter before the township, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, except as allowed by law, the matter under consideration shall be immediately referred to the board of ethics for a final determination as to the conflict in question and whether the official, employee or board member must refrain from discussion, deliberation, action or voting thereon.

#### **1.06. Board of Ethics.**

- (a) A board of ethics is hereby established by the township consisting of five members from the general public who are not personally subject to this code of ethics. The members shall be appointed by and serve at the pleasure of the township board. They shall serve four-year staggered terms. Three members of the board shall constitute a quorum and the affirmative vote of the majority of those present shall be necessary for any action. Members may not nominate an alternate or representative to cast votes on any matter coming to the attention of the board. Members of the board of ethics shall serve without salary but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.
- (b) The powers and duties of the board shall be as follows:
1. To recommend from time to time such orders, rules, regulations, and changes as it deems necessary and proper to supplement, administer and implement or amend the provisions of the code of ethics, which recommendations, when approved by the township board shall become part of this code of ethics.
  2. To investigate and render advisory opinions to township officials and employees or their appointing authorities with respect to any matter or transaction in which said officials or employees are involved concerning the applicability of this code of ethics. The board may publish such advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the official or employee who may request such an opinion.

3. To investigate any alleged violation of the code by a township official or employee where the appointing authority for the official or employee involved in the alleged violation shall request the board to make such investigation. A written report of the results of the board's investigation shall be made to the appointing authority and the official or employee involved.
4. To investigate an alleged violation of the code of ethics upon the written request of the township board, or the Superintendent and to submit a written report to the township board and the official or employee involved.
5. To conduct informal hearings prior to rendering an opinion or report in any particular matter whenever the board deems it appropriate for a hearing to be held or whenever a township official or employee who may be substantially affected by the opinion or report in the matter requests a hearing. Such hearing may be held by the board itself or by a hearing officer designated by the chairman of the board, whichever the chair deems appropriate in any particular instance. The chair may designate as a hearing officer any member of the board. Whenever a hearing is conducted by a hearing officer instead of the board itself, the hearing officer must submit a written report of the hearing to the board.
6. An opinion or report of the board rendered under subsections (b)2, 3 and 4 of this section may be utilized as a basis for any administrative action appropriate under the circumstances.
7. The board of ethics is not empowered to take direct administrative action but, rather, its function shall be solely advisory and investigatory as provided for herein.

#### **1.07. Violations.**

Violations of any provisions of this code should raise conscientious questions for the township official or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the township. Violation may constitute a cause for suspension, removal from office or employment, or other disciplinary action.

**PART II. Severability.** Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART III. Savings Clause.** Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court or any rights acquired or any liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Charter Township of Oscoda Resolution 2021-09



Article IV of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance

**PART IV. Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART V. Effective Date; Publication.** This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Oscoda at a meeting duly called and held on \_\_\_\_\_, 2022, and ordered to be given publication in the manner prescribed by law.

Made, passed and adopted by the Oscoda Township Board on this \_\_\_\_ day of \_\_\_\_\_, 2022.

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**Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Oscoda Township Board held on the \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Joshua Sutton, Clerk

Adopted:

Published:

Effective:

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