

TOWNSHIP OF ROSS
KALAMAZOO COUNTY, MICHIGAN

ORDINANCE NO. 234
ADOPTED: JUNE 28, 2023
EFFECTIVE: AUGUST 15, 2023

ROSS TOWNSHIP ETHICS ORDINANCE

An Ordinance to set forth the standards of conduct for the officers and employees of Ross Township; provide a complaint procedure for potential violations of this Ordinance; set forth penalties for violations of this Ordinance; provide for severability of the sections of this Ordinance; to repeal all ordinances or parts of ordinances in conflict herewith; and to provide an effective date.

The Township of Ross, Kalamazoo County, Michigan ordains:

ARTICLE 1

TITLE AND DEFINITIONS

Section 1 - 1. Title. This Ordinance shall be known and may be cited as the Ross Township Ethics Ordinance.

Section 1 - 2. Definitions.

- (a) "Confidential Information" shall mean information obtained by an officer or employee by reason of their position that is not available to members of the public pursuant to the Michigan Freedom of Information Act or other applicable laws, regulations, or procedures.
- (b) "Employee" means a person employed by Ross Township, whether on a full-time or part-time basis and whether elected, appointed, or at-will.
- (c) "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, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.
- (d) "Government contract" means a contract in which Ross Township acquires goods or services, or both, from another person or entity, but the term does not include a contract pursuant to which a person serves as an employee or appointed officer of the Township.
- (e) "Governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by

the members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

- (f) "Immediate family" means a person and a person's spouse and the person's children and step-children, by blood or adoption, who reside with that person.
- (g) "Officer or Official" means a person who holds office, by election or appointment within Ross Township regardless of whether the officer is compensated for service in his or her official capacity.
- (h) "Official action" means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.
- (i) "Prohibited source" means any person or entity who:
 - a. Is seeking official action by any of the following:
 - i. an officer; or,
 - ii. an employee; or,
 - iii. the officer or another employee directing that employee.
 - b. Does business or seeks to do business with any of the following:
 - i. an officer; or,
 - ii. an employee; or,
 - iii. the officer or another employee directing that employee;
 - c. Conducts activities regulated by any of the following:
 - i. the officer; or,
 - ii. an employee, or by the officer or another employee directing that employee.
 - d. Has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee.

ARTICLE 2

STANDARDS OF CONDUCT

Section 2 – 1. Gift Ban. Except as permitted by this ordinance, no officer or employee of Ross Township shall intentionally solicit or accept any gift from any prohibited source or which is otherwise prohibited by law or ordinance.

Section 2 – 2. Exceptions. Section 2 – 1 is not applicable to the following:

- (a) Opportunities, benefits, and services that are available on the same conditions as for the general public;
- (b) Anything for which the officer or employee pays the fair market value;

- (c) Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan;
- (d) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée;
- (e) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship;
 - a. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees;
- (f) Food or refreshments not exceeding \$50.00 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered.
 - a. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means;
- (g) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances;
- (h) Intra-governmental and inter-governmental gifts;
 - a. For the purpose of this ordinance, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee of Ross Township and

"inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity;

- (i) Bequests, inheritances, and other transfers at death;
- (j) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$ 50.00.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 2 – 3. Disposition of gifts. An officer or employee does not violate this Ordinance if he or she promptly takes reasonable action to return a gift from a prohibited source.

Section 2 – 4. Confidential Information. A Township official or employee who acquires information in the course of his or her official duties, which by law or policy is confidential information, as defined by this Ordinance, shall not divulge that information to an unauthorized person, nor use the information to further the private interest of the Township official or any third party.

Section 2 – 5. Personal Opinion. An officer or employee shall not represent his or her personal opinion as that of Ross Township.

Section 2 – 6. Public Resources. An officer or employee shall use personnel resources, property, and funds under the officer's or employee's official care and control judiciously and solely in the furtherance of the officer or employee's official Township duties, and not for personal gain or use.

Section 2 – 7. Personal Profit. A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this Township.

Section 2 – 8. Incompatibility and Conflicts of Interest. Except as otherwise provided in Michigan Const 1963, statute, or in Section 2 - 10, an officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair their independence of judgment or action in the performance of official duties.

Section 2 – 9. Personal and financial interests. Except as provided in Section 2 – 10, an officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the officer or employee has a financial or personal interest.

Section 2 – 10. State Conflict of Interest Act, Validity of Contracts, and Voting on, Making, or Participating in Governmental Decisions.

- (a) This Ordinance shall not in any manner vary or change the requirements of 1968 PA 317, being Sections 15.321 to 15.330 of the Michigan Compiled Laws, which governs the solicitation by and participation in government contracts by officers and employees of Ross Township and preempts all local regulation of such conduct.
- (b) This ordinance is intended as a code of ethics for Ross Township's officers and employees. A contract in respect to which a public officer or employee acts in violation of this Ordinance, shall not be considered to be void or voidable unless the contract is a violation of a statute which specifically provides for the remedy.
- (c) Subject to subsection (d), Sections 2 - 8 and 2 - 9 shall not apply and an officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:
 - a. The requisite quorum necessary for official action on a governmental decision Ross Township board or commission to which the officer has been elected or appointed is not available because the participation of the officer in the official action would otherwise violate Sections 2 - 8 and 2 - 9.
 - b. The officer is not paid for working more than 25 hours per week for the Township.
 - c. The officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision and the disclosure is made part of the public record of the official action on the governmental decision.
- (d) If a governmental decision involves the awarding of a contract, Sections 2 - 8 and 2 - 9 shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:
 - a. All of the conditions of subsection (c) are fulfilled.
 - b. The public officer will directly benefit from the contract in an amount less than \$250.00 or less than 5% of the public cost of the contract, whichever is less.
 - c. The public officer files a sworn affidavit containing the information described in subdivision (b) with the Ross Township board or commission making the governmental decision.
 - d. The affidavit required by subsection (c) is made a part of the public record of the official action on the governmental decision.

Section 2 – 11. Political Activities of Public Employee or Public Officer. (1) Employees of local units of government running for office, political campaigning by employees, and limitations on officers and employees seeking support from other employees for those campaigning for public office and for or against ballot proposals are regulated by the Political Activities by Public Employees Act, MCL 15.401 et seq. Complaints may be filed with the Michigan Department of Energy, Labor and Economic Growth. MCL 15.406. Violation of the provisions of this Act by employees and appointed officers are subject to appropriate disciplinary action, up to and including termination by the appointing authority. Violations of the ordinance are also subject to the sanctions listed in Article 4 of this Ordinance. (2) Michigan Campaign Finance Act, MCL 169.201 et seq. Complaints regarding compliance with this Act may be filed with the Michigan Department of State. See: Political Activities by Public Employees Act, 1976 PA 169, MCL 15.401 et seq. See: Michigan Campaign Finance Act, MCL 169.201 et seq.

Section 2 – 12. Anti-nepotism. Unless the Ross Township Board of Trustees shall by a two thirds (2/3) vote, which shall be recorded as part of its official proceedings, determine that the best interests of the Township shall be served and the individual considered by such a vote has met the qualifications for appointive office or employment, the following relatives of any elected or appointed officer are disqualified from holding any appointed office or employment during the term for which said elected or appointed officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the Township at the time of the election or appointment of said officer to elective Township office.

Section 2 – 13. Representation Before Governmental Body. An official or employee of Ross Township shall not represent any other person in any matter that the person has before the Township when the officer or employee appoints or otherwise supervises the board, commission, officer or employee responsible for handling the matter.

Section 2 - 14. Transactional Disclosure. Whenever an officer or employee is required to recuse himself or herself under Article Two of this Ordinance, he or she:

- (a) shall immediately refrain from participating further in the matter;
- (b) shall promptly inform his or her superior, if any; and,
- (c) shall promptly file with the Ross Township Clerk a signed Affidavit of Disclosure disclosing the reason for recusal. The Clerk shall send copies of the Affidavit of Disclosure to all of the members of the Township Board and the Affidavit shall be attached to the minutes of its next meeting.

Section 2-15. Willful Neglect of Duty. No elected or appointed Township official shall willfully neglect a duty ascribed to them by law.

Section 2-16. Wrongful Complaint. No person shall file a complaint alleging a violation of this Ordinance knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth.

ARTICLE 3

FILING AND DISPOSITION OF COMPLAINTS

- (a) **Section 3 – 1. Complaint Procedure** Complaints alleging a violation of this ordinance shall be filed with the Ross Township Supervisor. If such allegation is against the Supervisor the complaint shall be filed with the Township Attorney. Within 5 business days after the receipt by the Supervisor/Attorney of a complaint, the Supervisor/Attorney shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against them together with a copy of the complaint. The respondent shall be permitted to file a response to the complaint with any necessary evidence, which must be received by the Supervisor/Attorney within 10 days after service of the complaint. Any response by the respondent shall be sent by certified mail, return receipt requested, to the complainant. The complaint and any response shall then be forwarded by the Supervisor/Attorney to the Complaint Review Committee as established herein.
- (b) The Ross Township Board shall appoint a Complaint Review Committee consisting of two Township Board Trustees. The Complaint Review Committee shall review the complaint and any response within 15 days of receipt and determine whether there is a reasonable basis for the complaint to move forward to the Township Board. The Complaint Review Committee may use the services of the Township Attorney to assist in making its determination. If the Complaint Review Committee determines that there is no reasonable basis for the complaint to move forward then the file shall be closed and the complainant and respondent shall be notified of this determination by certified mail, return receipt requested.
- (c) Upon receipt of a complaint and response forwarded from the Complaint Review Committee, the Township Board, within a reasonable amount of time, shall in its discretion take one or more of the following actions with advise from the Township Attorney:
- a. Refer the matter for a third-party investigation and report to the Board;
 - b. Refer the matter for investigation to any other law enforcement body, prosecutor, or government agency;
 - c. Request prosecution for a violation under Section 4;
 - d. Take disciplinary action including censure, reprimand, removal, dismissal or discharge to the extend allowed by law;
 - e. Close the file.

If the Board refers the complaint under a. or b. above, the matter will remain open until official investigation is complete. After receiving a report under a. or b. the Board may take further action herein.

Section 3-2. Whistleblower's Protection and Limitation Period

- (a) This Ordinance is subject to Sections 2b - 2e of the State Ethics Act, MCL 15.341 et seq, set forth protections for officers and employees who act as whistleblowers regarding the conduct of the Township's officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq.
- (b) A complaint must be filed with the Supervisor/Attorney within six months of the date the offense is alleged to have occurred or was first discovered.

ARTICLE 4

SANCTIONS

Section 4-1. Municipal Civil Infractions. Except as otherwise provided in this section, a violation of any of the provisions of this Ordinance shall constitute a municipal civil infraction.

Upon determination of responsibility for a municipal civil infraction, the person shall pay a fine according to the following schedule:

First offense\$500.00

Second offense and each subsequent offense within three-year period are each\$1000.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

The imposition of a fine shall not exempt an offender from compliance with the provisions of this Ordinance.

Any violation of this Ordinance is hereby declared to constitute a public nuisance, and shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.

ARTICLE 5

SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision hereof is declared void of unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

ARTICLE 6

REPEAL AND EFFECTIVE DATE

This Ordinance shall take effect 30 days after publication as required by law. 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.

Ross Township
Kalamazoo County MI
Alexander Harris, Clerk

**TOWNSHIP OF ROSS
KALAMAZOO COUNTY, MICHIGAN
NOTICE OF ADOPTION OF ORDINANCE**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP OF ROSS, KALAMAZOO COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that the Ross Township Board adopted Ordinance No. 234 at a special Board meeting held on June 28, 2023. A summary of the Ordinance is as follows:

Ordinance No. 234

ETHICS ORDINANCE

SECTION 1. TITLE & DEFINITIONS. This Ordinance is to be referred to and cited as the Ross Township Ethics Ordinance; this section also provides definitions for words and phrases as used throughout the Ordinance.

SECTION 2. STANDARDS OF CONDUCT. Provides rules and regulations for all of the following: a gift ban and exceptions; disposition of gifts; confidential information; personal opinions; public resources; personal profit; incompatibility and conflicts of interest; personal and financial interests; state conflicts of interest and validity of contracts; political activities of public employees or public officers; anti-nepotism; representation before a governmental body; transactional disclosures; willful neglect of duty; and wrongful complaints.

SECTION 3. FILING AND DISPOSITION OF COMPLAINTS. Creates a Complaint Review Committee and a complaint review procedure for the Township; provides potential actions the Committee can take; and provides whistleblower protection and a statute of limitations.

SECTION 4. SANCTIONS. Designates a violation of this Ordinance as a municipal civil infraction subject to a fine of \$500.00 for a first offense or \$1,000.00 for any additional offenses in a three-(3)-year period; also provides that the violator shall pay the Township's expenses in enforcing this Ordinance; also makes a violation of this Ordinance a public nuisance.

SECTION 5. SEVERABILITY. Provides that the provisions of the Ordinance are severable.

SECTION 6. EFFECTIVE DATE. This Section sets the Ordinance to become effective thirty (30) days after publication of the Ordinance or a summary of the same in a newspaper of general circulation in the Township.

PLEASE TAKE FURTHER NOTICE that the full text of this Ordinance has been posted at the address set forth below; on the Ross Township website at <https://rosstownshipmi.gov>; and that a copy of the Ordinance may be purchased or inspected at the office of the Ross Township Clerk during regular business hours of regular working days (Mondays through Thursdays) following the date of this publication.

ROSS TOWNSHIP
Alexander Harris, Clerk
Township of Ross
12086 M-89, Richland, MI 49083
269-731-4888
<https://rosstownshipmi.gov>