

## **ANTRIM COUNTY CONFLICT OF INTEREST POLICY**

### **SECTION I – AUTHORITY**

Under the authority granted in MCL 46.11, the Board of Commissioners for Antrim County hereby adopts the following policy concerning conflicts of interest. This Policy is intended to supplement and not supersede existing Michigan State Law dealing with unethical conduct and/or conflicts of interest by County Commissioners or public officers. In addition to this Policy, County Commissioners and public officers remain bound by all state laws including, but not limited to, MCL 15.181 *et. seq.*, the Incompatible Public Offices Act, MCL 15.321 *et. seq.*, the Contract of Public Servants with Public Entities Act and MCL 46.30 *et seq*, Michigan Campaign Finance Act, MCL 169.201 *et seq*.

### **SECTION II – PURPOSE**

The purpose of this Policy is twofold: 1) to ensure the business of this County is conducted in such a way Commissioners or public officers will not gain a personal or financial advantage from his or her work for the County, and 2) to preserve public trust. It is also the intent of this Policy to insure that all decisions made are based upon the best interests of the County at large.

### **SECTION III – DEFINITIONS**

For the purposes of this Policy, the following definitions shall apply:

**A. Conflict of Interest** means any of the following:

1. A direct or indirect personal interest of a Commissioner or public officer, or his or her spouse or other household member, in the outcome of a cause, proceeding, application or any other matter pending before the Board of Commissioners, public officers, or public body, in which he or she holds office or is employed. This also includes any child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law,

business associate, employer or employee of a Commissioner or public officer, or his or her spouse or other household member, who has a direct or indirect personal interest in the outcome of a cause, proceeding, application or any other matter pending before the Board of Commissioners, public officers, or public body, in which he or she holds office or is employed.

2. A direct or indirect financial interest of a Commissioner or public officer, or his or her spouse or other household member, in the outcome of a cause, proceeding, application or any other matter pending before the Board of Commissioners, public officers, or public body, in which he or she holds office or is employed. This also includes any child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee of a Commissioner or public officer, or his or her spouse or other household member, who has a direct or indirect financial interest in the outcome of a cause, proceeding, application or any other matter pending before the Board of Commissioners, public officers, or public body, in which he or she holds office or is employed.

3. A situation where a Commissioner or public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue; and

4. A situation where a Commissioner or public officer has not disclosed ex-parte communications with a party in a quasi-judicial proceeding.

B. **County Commissioner** means a person elected or appointed to serve upon the Antrim County Board of Commissioners.

C. **Elected Official** means Sheriff, County Clerk, County Treasurer, Register of Deeds, Prosecuting Attorney, Drain Commissioner and County Surveyor.

- D. **Emergency** means an imminent threat or peril to the public health, safety or welfare.
- E. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any Commissioner, public body or appointed public officer while acting on behalf of the County.
- F. **Public body** means any board, council, commission or committee of the County.
- G. **Public interest** means an interest of the County as a whole and is generally conferred upon all residents of the County.
- H. **Public officer or public official** means a person appointed or hired to perform executive or administrative functions for the County, including appointed Department Heads and any person appointed to any public body.
- I. **Quasi-judicial Proceeding** means and is limited to an adjudication proceeding when all are present and is:
- a. Allowable either by statute or ordinance and held before a public body;
  - b. During which the legal rights of one or more persons to have an hearing before the public body are considered;
  - c. During which all parties have the opportunity to present evidence and question witnesses; and
  - d. When the adjudication proceeding results in an oral or written decision, an appeal of which is permitted by statute or ordinance. By way of example, this would include but not be limited to a hearing before the Construction Code Board of Appeal, Farmland and Open Space Preservation Board, or Board of Commissioners when sitting as an Appeals Board. It does not include any action or public hearing involving a non-adjudication determination in a legislative or policy-making capacity by the County Board of Commissioners, public officer or any public body.

## SECTION IV – DISQUALIFICATION/PROHIBITION

- A. A Commissioner or public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A Commissioner or public officer shall not personally, or through any member of his or her household, as set-forth in Section III.A, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the Commissioner or public officer holds office or is employed.
- C. In addition to enforcement under Section VII, the Chair of the County Board shall have the authority to order a public officer to recuse his or herself from the matter. A majority vote of the County Board may override the County Chair's order of recusal.
- D. By virtue of their public office, a Commissioner, elected official or a public officer shall not accept gifts or other offerings for personal gain or if prohibited by law. The term **"Gift"** shall not include promotional items of nominal value such as calendars, pens/pencils, office-related material or small seasonal items provided for the general use of all employees within an office or to the public and not made to an individual person. **"Gift"** shall not include "give away" items or prizes provided at conferences, training sessions, or by an association, if such items are generally equally available to all attendees or members. **"Gift"** shall not include any donation made to the County or elected official's office for the general use of the office or persons served by the office or County.
- E. A Commissioner, elected official or public officer shall not use resources not available to the public, including, but not limited to, County staff time, equipment, supplies or facilities, for private gain or personal purposes.

## **SECTION V - DISCLOSURE**

- A. A public officer who has reason to believe that he or she has or may have a potential conflict of interest under this policy or under State Law, shall clearly state the scope and nature of the conflict of interest and recuse his or herself from the matter or take such other action as may be required by this policy or required under State Law.
- B. A Commissioner who has reason to believe that he or she has or may have a conflict of interest under this policy, but believes that he or she is able to act fairly, objectively, and in the public interest in spite of the conflict of interest, shall, prior to participating in any official action on the matter, disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest, and why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest and may take such action as permitted by law, unless required by State law to recuse him or herself.
- C. In quasi-judicial proceedings, individuals, unless otherwise prohibited by law, are not precluded from oral or written communication directly with a member of the decision-making body. Such ex-parte communications are not presumed prejudicial if the subject of the communication and the identity of the person, group, or entity with which the communication took place is disclosed and made a part of the record before final action on the matter occurs. Members of the decision-making body may make site visits and may receive information or expert opinion regarding quasi-judicial actions pending before them. Such activity shall not be presumed prejudicial to the action if the existence of the investigation, site visit, information, or expert opinion is made a part of the record before final action on the matter occurs. All decisions in a quasi-judicial action must be

supported by evidence in the record pertinent to the proceedings, irrespective of such communications.

- D. A Commissioner, public official or public body, unless otherwise prohibited by law, may have written and oral written communication from any person.
- E. A Commissioner, public officer or public official, unless otherwise prohibited by law, may conduct investigations and site visits and may receive information and expert opinions.

## **SECTION VI - RECUSAL**

- A. A Commissioner or public officer shall recuse him or herself from any matter in which he or she has a conflict of interest, unless such recusal is not permitted by State law.
- B. Any person may request that a member recuse him or herself due to a possible conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself, unless required by State Law.
- C. A Commissioner or public officer who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member.
- D. If a previously unknown conflict is discovered, a public body may take evidence pertaining to the conflict and, if appropriate, adjourn to address the conflict.
- E. The Board of Commissioners or a public body may adjourn if, after a recusal, it may not be possible to take action through the concurrence of a majority. The Board may then resume the proceeding with sufficient members present; however, in no case may a recusal deprive a Board of Commissioners or a public body from permanently achieving a quorum to take official action.

- F. In addition to enforcement under Section VII, the County Chair shall have the authority to order a public officer to recuse him or herself from the matter. A majority vote of the County Board may override the County Chair's order of recusal.

## **SECTION VII – ENFORCEMENT**

### **Consequences for Failure to Follow the Conflict of Interest Procedures by a Person *Other Than a County Commissioner*.**

In cases where the conflict of interest procedures in Sections V and VI have not been followed, the County Board of Commissioners may take action to discipline an offending public officer. In the discipline of a public officer, the Board shall follow these steps in order:

- A. The Chair shall meet informally, in private, with the public officer to discuss the possible conflict of interest violation, unless such meeting is not in accord with a collective bargaining agreement, in such case the collective bargaining agreement shall be followed.
- B. The County Board or designated committee may meet to discuss the conduct with the public officer. The public officer may request that this meeting occur in a closed session. A closed session may be used for such discussion in accordance with the Open Meeting Act MCL 15.268, unless such meeting is not in accord with a collective bargaining agreement, in such case the collective bargaining agreement shall be followed.
- C. If the County Board decides that further action is warranted, the County Board may admonish, suspend, terminate employment, or remove the offending public officer from any board, council, commission or committee. The public officer shall be given the opportunity to respond to such proposed action.
- D. Nothing in this Section shall override any collective bargaining agreement.

## **SECTION VIII – ENFORCEMENT**

### **Consequences for Failure to Follow the Conflict of Interest Procedures by a Person *Who Is a County Commissioner*.**

- A. Upon a majority vote, the County Board may request the offending Commissioner to recuse his or herself from the matter.
- B. Upon a majority vote, the County Board may admonish the offending Commissioner.
- C. Upon a majority vote, the County Board may request that the offending Commissioner resign from the County Board.
- D. Upon a majority vote, the County Board may authorize such other civil legal action against such offending Commissioner as may be necessary and/or permitted by law.
- E. The Chair or any person may refer the matter to the Prosecuting Attorney to determine if any violation of state criminal law may have occurred.

#### **SECTION IX – EXCEPTION**

Unless State law requires a recusal, the recusal provisions shall not apply if the County Board of Commissioners determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided for in Section V.

#### **SECTION X – EFFECTIVE DATE**

This Policy shall become effective immediately upon its adoption by the Antrim County Board of Commissioners.

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



## **CONFLICT OF INTEREST POLICY**

### **Acknowledgement**

The undersigned member of Antrim County Boards and Commissions, public body or public officers covered by this policy hereby acknowledges that he/she has received a copy of the Conflict of Interest Policy.

The undersigned also understands that he/she is bound by the policies and procedures described in this Policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

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

**Please return the following to:**

Antrim County Coordinator/Planner Office  
P.O. Box 187  
Bellaire, MI 49615