

**THE TOWNSHIP OF EWING  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE NO. 15-29**

1st Reading 8-11-15

Date to Mayor 9-9-15

2nd Reading &  
Public Hearing 9-8-15

Date Returned 9-9-15

Date Adopted:  
9-8-15

Date Resubmitted to Council \_\_\_\_\_

Approved as to Form of Legality

Effective Date:  
9-28-15

\_\_\_\_\_  
Township Attorney

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 26, CODE OF ETHICS

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter				X		
Schroth	X				X	
Steward	X					X
Wollert	X					
Keyes-Maloney	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter			X			
Schroth	X					
Steward	X					X
Wollert	X				X	
Keyes-Maloney	X					

By \_\_\_\_\_ Date \_\_\_\_\_ Accepted \_\_\_\_\_ Rejected \_\_\_\_\_  
Mayor

Reconsidered  
By Council \_\_\_\_\_ Override Vote YEA \_\_\_\_\_ NAY \_\_\_\_\_

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
Municipal Clerk

**TOWNSHIP OF EWING  
ORDINANCE NO. 15-29**

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 26, CODE OF ETHICS

**WHEREAS**, pursuant to N.J.S.A. 40A:9-22.4, ethical issues concerning municipal employees and officers can be resolved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs (“Local Finance Board”); and

**WHEREAS**, pursuant to N.J.S.A. 40A:9-22.7, the Local Finance Board also has the power to initiate, receive, hear and review complaints as well as issue advisory opinions, among many other powers; and

**WHEREAS**, because the powers and duties of the Ethical Standards Board are largely redundant and practically unnecessary due to the existence of the Local Finance Board, the Township is desirous of eliminating the requirement that the Ethical Standards Board perpetually exist, but rather place its establishment in the discretion of the Mayor.

**BE IT ORDAINED** by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1      CHAPTER 26, CODE OF ETHICS is hereby amended as follows:

**§ 26-6 EWING TOWNSHIP ETHICAL STANDARDS BOARD; MEMBERS.**

- A. ~~An Ethical Standards Board may be formed at the discretion of the Mayor. There is hereby established the Ewing Township Ethical Standards Board, consisting~~ The Ethical Standards Board shall consist of six members who are residents of the Township, at least two of whom shall be public members. The members of the Board shall be appointed by the Mayor with the advice and consent of the Township Council. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the Board shall be of the same political party.
- B. The members of the Ewing Township Ethical Standards Board shall annually elect a Chairperson from among the membership.
- C. The members shall serve for a term of five years, except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the unexpired term.
- D. Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties under this chapter.
- E. All hearings required pursuant to this chapter shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.
- F. In the event that a hearing is to be held, the officer or employee charged with violation of this chapter shall be accorded due process of law, including but not limited to the following:
- (1) Right to counsel.
  - (2) Right to pre-hearing discovery.
  - (3) Right to take sworn oral and written testimony for any person.
  - (4) Reasonable notice of hearing.

(5) Right to subpoena persons and documents.

(6) Right to make stenographic record of the hearing.

Right of examination and cross examination.

#### **§ 26-7 FACILITIES AND STAFF.**

- A. The Township Council shall provide the Ewing Township Ethical Standards Board with the facilities needed for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary and as may be provided for in the annual municipal budget.
- B. All necessary expenses incurred by the Ewing Township Ethical Standards Board and its members shall be paid, upon certification of the Chairperson of the Board, by the Township Treasurer within the limits of funds appropriated in the annual budget or by emergency appropriations for those purposes.
- C. The Ewing Township Ethical Standards Board may request and receive assistance from Township officers and employees, including the Municipal Clerk and the Township Attorney, and may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this chapter within the limits of funds appropriated by the Township Council for those purposes in the annual budget.

#### **§ 26-8 ADOPTION OF CODE OF ETHICS.**

On May 16, 1991, pursuant to law, the Ewing Township Ethical Standards Board adopted a Code of Ethics, which remains in effect and which has been incorporated into the Township's Personnel Policy and Procedure Manual.

Editor's Note: The Manual is on file in the office of the Municipal Clerk.

#### **§ 26-9 POWERS AND DUTIES OF ETHICAL STANDARDS BOARD.**

The Ewing Township Ethical Standards Board shall have the following powers:

- A. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the Municipal Code of Ethics or financial disclosure requirements by local government officers or employees serving the Township.
- B. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing.
- C. To forward to the County Prosecutor or the Attorney General or other governmental body any information concerning violations of the Code of Ethics or financial disclosure requirements by officers or employees serving the Township which may warrant the institution of other legal proceedings by the Attorney General.
- D. To render advisory opinions to local officers or employees serving the Township as to whether a given set of facts and circumstances would constitute a violation of any provision of the Code of Ethics or financial disclosure requirements.
- E. To enforce the provisions of the Code of Ethics and financial disclosure requirements with regard to officers or employees serving the Township and to impose penalties for the violation thereof as are authorized by this chapter.
- F. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this chapter.

#### **§ 26-10 ADVISORY OPINIONS.**

- A. Any officer or employee of the Township of Ewing may request and obtain from the Ewing Township Ethical Standards Board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the Code of Ethics or any financial disclosure requirements.

- B. Advisory opinions shall not be made public, except when the Board, by the vote of 2/3 of all of its members, directs that the opinion be made public.
- C. Public advisory opinions shall not disclose the name of the officer or employee unless the Board, in directing that the opinion be made public, so determines.

#### **§ 26-11 COMPLAINTS.**

- A. The Ewing Township Ethical Standards Board, upon receipt of a signed written complaint by any person alleging that the conduct of any officer or employee of the Township of Ewing serving the Township is in conflict with the Code of Ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint.
- B. The Board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis.
- C. If the Board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the officer or employee of the Township of Ewing against whom the complaint was filed.
- D. If the Board shall conclude that the complaint is within its jurisdiction and has at least a minimal factual basis, the Board shall notify the officer or employee of the Township of Ewing against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.
- E. The officer or employee shall have the opportunity to present the Board with any statement or information concerning the complaint which he or she wishes.
- F. If the Board determines that a reasonable doubt exists as to whether the officer or employee of the Township of Ewing is in conflict with the Municipal Code of Ethics or any financial disclosure requirements, the Board shall conduct a hearing concerning the possible violation and any other facts and circumstances which may have come to the attention of the Board with respect to the conduct of the officer or employee.
- G. The Board shall render a decision as to whether the conduct of the officer or employee is in conflict with the Code of Ethics or any financial disclosure requirements. This decision shall be made by no less than 2/3 of all members of the Board.
- H. If the Board determines that the officer or employee is in conflict with the Code of Ethics or any financial disclosure requirements, it may impose penalties which it believes appropriate within the limits of this chapter.

#### **§ 26-12 VIOLATIONS AND PENALTIES.**

- A. An appointed officer or employee of the Township of Ewing found guilty by the Ewing Township Ethical Standards Board of the violation of any provision of this chapter or of any Code of Ethics in effect pursuant to this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1. The Ewing Township Ethical Standards Board shall report its findings to the office or agency having the power of removal or discipline of the appointed officer or employee and may recommend that further disciplinary action be taken.
- B. An elected officer or employee of the Township of Ewing found guilty by the Ewing Township Ethical Standard Board of the violation of any provision of this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1).
- C. The finding by the Ewing Township Ethical Standards Board that an appointed officer or employee of the Township of Ewing is guilty of the violation of the provisions of this chapter, or of any Code of Ethics in effect pursuant to this chapter, shall be sufficient cause for his removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is

found to have violated the provisions of this chapter or any Code of Ethics in effect pursuant to this chapter, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

**§ 26-13 RECORDS OF ETHICAL STANDARDS BOARD.**

All statements, complaints, requests or other written materials filed pursuant to this chapter and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this chapter shall be preserved for a period of five years from the date of filing or preparation, as the case may be.

Section 2 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 3 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

Adopted: