

**HOME RULE CHARTER  
OF  
MACOMB COUNTY, MICHIGAN**

Approved by the Macomb County Charter Commission  
June 17, 2009

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## **PREAMBLE**

We, the people of Macomb County, to provide a local government which is efficient, economical, and ethical, exercise our constitutional rights and adopt this Home Rule Charter.

## **ARTICLE I**

### **HOME RULE/GENERAL PROVISIONS**

#### **Section 1.1 Purpose of Charter**

The purpose of this Charter is to convert the County of Macomb from a general law county to a home rule county under a locally adopted charter led by home rule county officers. This Charter shall be liberally construed in favor of the County as required by Article VII, Section 34 of the Constitution.

#### **Section 1.2 Home Rule Powers**

The home rule County of Macomb possesses home rule power as granted by Article VII, Section 2 of the Constitution to provide for any matter of County concern together with all other powers which a county may possess under the Constitution and laws of this state. The enumeration of powers in this Charter shall not be construed to exclude or limit other powers possessed by the County by implication or operation of law.

#### **Section 1.3 Boundaries of County**

The boundaries of the County existing when this Charter takes effect shall continue until changed in accordance with law.

#### **Section 1.4 Definitions**

As used in this Charter:

- (a) *Adopted, approval, approved, and confirmed* mean actions of the Commission requiring the affirmative vote of a Majority of Commissioners.
- (b) *Agency* means a department, office, board, commission, or other administrative unit of County government, whether created by Charter, ordinance, or law.
- (c) *Appointee* means a person appointed to a compensated or uncompensated position in County government that is not subject to a collective bargaining agreement, who is not elected to or holding an office that is subject to an election, and whose appointment is subject to the approval of the Commission or who is exempt from such approval under Article III of this Charter.

- (d) *Commission* means the County Board of Commissioners created by this Charter.
- (e) *Commissioner* means a member of the Commission. Commissioners are home rule county officers under this Charter.
- (f) *Constitution* means the Constitution of the State of Michigan, as amended.
- (g) *County* means Macomb County, Michigan.
- (h) *Countywide Elected Official* means the holder of an office in County government which is elected on a countywide basis. Countywide Elected Officials are home rule county officers under this Charter.
- (i) *Employee* means a person hired and employed in a position in County government.
- (j) *Ethics Board* means the Board of Ethics as created in this Charter.
- (k) *Ethics Board Member* means a member of the Board of Ethics.
- (l) *Executive* means the person holding the office of County Executive created by this Charter.
- (m) *Including and included* mean including, or included, without limitation.
- (n) *Majority of the Commission or other multi-member body* means a majority of the non-vacant positions.
- (o) *Organization Plan* means a plan of organization or reorganization proposed and approved as provided in this Charter.
- (p) *Public Servant* means a Countywide Elected Official, Commissioner, Appointee, or Employee.

## ARTICLE II

### ETHICS

#### **Section 2.1 Standards**

Public Servants of the County shall observe the highest standards of ethical conduct and are obligated to:

- (a) Comply with all laws and policies of County government;
- (b) Be independent, impartial, and fair in their judgment and actions;
- (c) Use their public office for the public good, not for personal gain;
- (d) Conduct public business openly, as provided by law, in an atmosphere of respect and civility; and
- (e) Cooperate fully with any request of the Ethics Board for information or assistance, subject to law.

#### **Section 2.2 Ethics Ordinance Mandated**

Within 1 year after the effective date of this Charter, the Commission shall adopt an ethics ordinance governing all Public Servants.

## **Section 2.3 Ethics Ordinance Provisions**

At a minimum, the ethics ordinance shall:

- (a) Define “conflict of interest” and prohibit a Public Servant from acting on a decision or transaction where an interest of the Public Servant, including a partisan political interest, is in actual or apparent conflict with an actual or apparent interest of the County.
- (b) Require a Public Servant to disclose personal interests in all contracts involving the County; the receipt of all gifts from persons doing, or seeking, or who may reasonably be expected to seek, County business; as well as other relationships which are, or may appear to be, a conflict of interest.
- (c) Define the circumstances in which acceptance of employment by a present or past Public Servant with another public or private entity is incompatible with the ethical duties of the Public Servant, and the extent to which such employment is prohibited.
- (d) Address the extent to which nepotism shall be prohibited in County hiring, appointments, and promotional decisions.
- (e) Define and prohibit all inappropriate political activity by Public Servants, including improper use of County time and property.
- (f) Define “confidential information of the County” and prohibit its disclosure by a Public Servant to a third party.
- (g) Define and prohibit the use of County resources and assets by a Public Servant for private purposes or commercial gain.
- (h) Define the disclosure requirements for potential and existing County vendors.
- (i) Provide sanctions for violations of the ethics ordinance.

## **Section 2.4 Board of Ethics**

**2.4.1** The Board of Ethics is created.

**2.4.2** The Ethics Board consists of 5 members, nominated by the Executive and subject to approval by the Commission. The Commission shall vote on approval within 60 days of receipt of a nomination from the Executive. If the Commission fails to act upon a nomination within that time, the Executive’s nomination becomes effective.

**2.4.3** Ethics Board Members serve without compensation.

**2.4.4** Ethics Board Members are appointed for 5-year terms, with the terms of not more than 2 Ethics Board Members expiring in any 1 year. Of the initial appointments, 2 shall expire February 1, 2013, 2 shall expire February 1, 2014, and 1 shall expire February 1, 2015.

**2.4.5** Ethics Board Members must be qualified electors in the County.



**2.4.6** Persons who have been Public Servants, other than unpaid Appointees, at any time in the preceding 2 years, their immediate family members, and other individuals as provided by ordinance, are ineligible to serve on the Ethics Board.

**2.4.7** An Ethics Board Member may not be an officer of a political party.

**2.4.8** An Ethics Board Member may be removed by the Executive for cause with the approval of the Commission.

## **Section 2.5 Powers and Duties of the Ethics Board**

**2.5.1** Within 180 days after approval of the 5 initial Ethics Board Members, the Ethics Board shall propose rules of procedure for the enforcement of the ethics provisions of this Charter, ordinance, and law, and submit them to the Commission for approval by resolution. The approved rules shall be filed with the County Clerk. If the Commission fails to approve or reject the proposed rules within 60 days after submission, the rules become effective.

**2.5.2** The Ethics Board may prepare educational materials regarding applicable ethics standards after consultation with the affected Agencies and conduct training programs for Public Servants.

**2.5.3** The Ethics Board shall provide a procedure whereby a Public Servant may obtain informal guidance for understanding and complying with applicable ethics standards.

**2.5.4** On the request of a Public Servant, or the supervisor of an Employee, concerning action by the Public Servant, the Ethics Board may render an advisory opinion.

## **Section 2.6 Complaints and Sanctions**

**2.6.1** A complaint alleging violation of an applicable ethics provision may be filed with the Ethics Board. The complaint must be signed by the complainant whose identity, as well as all information relating to the complaint, shall be kept confidential except as required by law or ordinance. Whenever an Agency receives a complaint alleging an ethics violation or determines that an ethics violation may have occurred, it shall refer the matter to the Ethics Board.

**2.6.2** If the Ethics Board determines that a complaint is supported by probable cause, it shall proceed to resolve the complaint in accordance with its rules of procedure, which shall include notice and an opportunity to be heard. The Ethics Board may subpoena witnesses, compel the production of evidence, and administer oaths.

**2.6.3** The Ethics Board may investigate any matter related to its responsibilities.

**2.6.4** The Ethics Board may seek the assistance of Corporation Counsel or, with the approval of the Commission, may retain outside counsel.

**2.6.5** Ethics Board determinations are final, reviewable only by a court as provided by law.

**Section 2.7 Retaliation Prohibited**

A Public Servant shall not take retaliatory action of any type against the complainant or a witness, and any such retaliatory action is itself a violation of the ethics provisions of the County.

**Section 2.8 Annual Report**

The Ethics Board shall submit an annual report to the Commission as required by ordinance.

**Section 2.9 Exemption from Reorganization**

The Ethics Board is exempt from reorganization under an Organization Plan.

**Section 2.10 Funding**

The County shall provide an annual appropriation and resources sufficient to enable the Ethics Board to perform its duties.

**ARTICLE III**

**EXECUTIVE**

**Section 3.1 Executive**

The office of County Executive is created and the executive power of the County is vested in the Executive, who is the head of the executive branch of County government.

**Section 3.2 Election and Term**

The Executive shall be elected at large on a partisan basis for a 4-year term. State law procedures and deadlines applicable to filing for office by candidates for Countywide Elected Officials elected under Article VI, and the conduct and canvass of such county elections, shall also apply to the office of Executive, except the Executive shall be elected for a term concurrent with the term of the governor.

**Section 3.3 Qualifications of the Executive**

A person who is a registered and qualified elector in the County as of the filing deadline for the office of Executive is qualified to serve as the Executive.

### **Section 3.4 Office at County Seat**

The principal office of the Executive shall be at the County seat.

### **Section 3.5 Authority, Duties, and Responsibilities**

The Executive has the authority, duty, and responsibility to:

- (a) Supervise, coordinate, direct, and control all County departments except for departments headed by Countywide Elected Officials other than the Executive, facilities, operations, and services except as otherwise provided by this Charter or law;
- (b) Enforce all laws in the County except as provided for by this Charter or law;
- (c) Discharge the duties granted the Executive by this Charter, law, or ordinance, and exercise all incidental powers necessary or convenient for the discharge of the duties and functions specified in this Charter or lawfully delegated to the Executive;
- (d) Submit reports and recommendations to the Commission on matters affecting the County;
- (e) Exercise powers and duties required for emergency preparedness;
- (f) Receive community information concerning County services;
- (g) Maintain intergovernmental relations and advocate or develop proposed legislation beneficial to County interests;
- (h) Coordinate economic development programs, countywide planning, and marketing of the County;
- (i) Promote the preservation of the natural resources of the County;
- (j) Submit to the Commission a proposed annual budget; and
- (k) Maintain no other full-time employment.

### **Section 3.6 Organization Plan**

**3.6.1** Except as provided in Article XI, within 90 days after the start of a new term of office the Executive shall submit a proposed Organization Plan to the Commission which includes an explanation of the reasons for the plan and an evaluation of its financial impact.

**3.6.2** The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

**3.6.3** The Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.

**3.6.4** The Commission shall hold a public hearing on the proposed Organization Plan or any proposed amendment within 50 days after its submission and must either approve, with or without amendment, or reject the proposed Organization Plan or any proposed amendment within 75 days after its submission.

### **Section 3.7 Report of County Financial Condition**

The Executive shall file a report with the Commission on the financial condition of the County at least quarterly. The report shall include:

- (a) A comparison of actual revenues to budgeted revenues for the current fiscal year;
- (b) A comparison of actual expenditures to budgeted expenditures for the current fiscal year;
- (c) Any revisions to the original revenue estimates and/or expenditure estimates; and
- (d) Additional information required by ordinance or law.

### **Section 3.8 Appointments**

Unless otherwise provided by this Charter or law:

- (a) The Executive shall appoint the Deputy County Executive, executive staff, department directors, members of boards and commissions, County representatives on intergovernmental bodies, and all other appointed officials or representatives;
- (b) With the exception of the Deputy County Executive, appointments by the Executive require approval by the Commission unless such appointments are exempted from approval by this Charter or law. If the Commission fails to approve or reject a proposed appointment within 75 days after its submission, the appointment becomes effective;
- (c) Countywide Elected Officials provided for in Article VI of this Charter are exempt from this section;
- (d) The Executive may appoint a confidential secretary, up to 3 administrative assistants, and unpaid advisory boards and commissions, all of whom are exempt from approval by the Commission;
- (e) Appointees of the Executive shall serve at will, at the pleasure of the Executive unless otherwise provided by law or contract; and
- (f) The department of Human Resources and Labor Relations shall establish and adopt qualifications and criteria for the appointment of department directors and other Appointees.

### **Section 3.9 Veto Authority**

Unless prohibited by law, the Executive may veto an ordinance, a line item of an ordinance appropriating money, or a resolution having the effect of law or approving a contract, by transmitting to the Commission notice of the veto and reasons for the veto. If the Executive

fails to exercise the veto within 10 business days after receipt of the ordinance by the Executive or within 10 business days after the adoption of a resolution, the action of the Commission takes effect.

### **Section 3.10 Intergovernmental Relations**

The Executive, with the approval of the Commission and concurrence of each Countywide Elected Official whose department will be required to allocate or transfer resources, may:

- (a) Enter into any intergovernmental contract which is not specifically prohibited by law;
- (b) Join, establish, or form with any other governmental unit an intergovernmental district or authority to perform a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law;
- (c) Accept, upon mutually agreed conditions, the transfer of performance of any municipal function or service from a governmental unit wholly or partially within the County, if the performance of that function or service by the County is not specifically prohibited by law, and if the function or service is offered on a countywide basis; and
- (d) Provide by contract services or functions in a political subdivision of the County with the agreement of the legislative body of that subdivision and with approval of the contract by the Commission. The cost of services or functions provided to a political subdivision of the County, but not provided countywide, shall be paid by the political subdivision in which the services or functions are performed. The revenues collected for the contracted services or functions shall be used first to pay for the contracted services.

### **Section 3.11 Deputy County Executive**

The Office of the Deputy County Executive is created. The Deputy County Executive shall exercise the powers and duties of the Executive if the office is vacant or if the Executive is absent or disabled. The Deputy County Executive shall also perform the powers and duties delegated by the Executive.

### **Section 3.12 Removal by Governor**

The Executive may be removed from office by the governor for the same reasons and with the same due process as provided by law for the sheriff, prosecuting attorney, county clerk, and county treasurer.

### **Section 3.13 Removal for Incapacity**

The Executive may be removed from office upon the affirmative vote of not less than 3/4 of the Commissioners serving after a public hearing upon a finding that the Executive is unable by reason of incapacity to perform the duties of office. The decision of the Commission may be appealed by the Executive to the Circuit Court for a de novo review.

### **Section 3.14 Vacancies**

**3.14.1** The office of the Executive becomes vacant in the manner provided by law for the offices of sheriff, prosecuting attorney, county clerk, and county treasurer.

**3.14.2** If a person elected to the office of Executive dies before the commencement of the term of office, a vacancy exists which shall be filled within 15 days after the beginning of the term.

### **Section 3.15 Filling a Vacancy**

A vacancy in the office of the Executive shall be filled in the following manner:

- (a) The county clerk, the prosecuting attorney, the sheriff, the treasurer, and the chairperson of the Commission shall, at a public meeting, appoint by a Majority a person to fill the vacancy within 60 days for the remainder of the unexpired term and until a successor is elected and qualified.
- (b) The office of the Executive shall be filled in the case of vacancy by holding a special primary election on the next August election day, in the manner provided by law, followed by a special election to be held on the next November election day for which it is possible to place the office of Executive on the ballot in the manner provided by law. The successor so elected shall hold the office for the remainder of the unexpired term.

### **Section 3.16 Transfers of Property and Records**

All property, records, and equipment of any Agency affected by this Charter or an Organization Plan shall be transferred to the appropriate Agency as directed by the Executive.

### **Section 3.17 Signature**

All contracts and instruments binding the County shall be signed by the Executive or designee of the Executive.

### **Section 3.18 Emergency Management**

The emergency management functions of the County shall be vested in the Executive, who may direct the emergency management coordinator and execute the emergency management plan of the County.

## **ARTICLE IV**

### **LEGISLATIVE**

#### **Section 4.1 Commission**

The Commission is created and the legislative power of the County is vested in the Commission. The Commission consists of 13 members elected for terms concurrent with State Representatives on a partisan basis from single member districts established by the County Apportionment Commission as provided in Article V.

#### **Section 4.2 Qualifications of a Commissioner**

A person who is a registered and qualified elector in the Commissioner district where the person resides as of the deadline for filing to run for the office of Commissioner is qualified to serve as a Commissioner for that district, unless the person is otherwise prohibited by law from holding the office of Commissioner.

#### **Section 4.3 Meetings, Rules, and Procedures**

At the first meeting of each new term, the Commission shall elect a chairperson and its other officers and establish its rules of procedure and its regular monthly meeting schedule. A Majority of the Commission constitutes a quorum.

#### **Section 4.4 Powers and Duties**

In addition to other powers and duties prescribed in this Charter, the Commission may:

- (a) Adopt, amend, or repeal ordinances or resolutions;
- (b) Establish committees of the Commission necessary to efficiently conduct the business of the Commission;
- (c) Appropriate funds, levy taxes, fees, and other charges, and authorize borrowing as provided by this Charter and applicable laws;
- (d) Approve contracts of the County;
- (e) Approve or reject appointments by the Executive as provided by this Charter;
- (f) Override a veto by the Executive within 30 days by at least 2/3 of the Commissioners serving;
- (g) Subpoena individuals, compel the production of records, and administer oaths;
- (h) Appoint, approve, and remove members of committees, boards, and commissions as provided by this Charter or law;
- (i) Submit tax and ballot proposals to the electorate; and
- (j) Exercise any power granted by law to charter or general law counties unless otherwise provided by this Charter.

#### **Section 4.5 Enumerated Powers Not Exclusive**

The enumeration of powers in this Charter shall not be held or deemed to be exclusive. In addition to the powers enumerated in this Charter, implied by this Charter, or appropriate to the exercise of the powers enumerated in this Charter, the Commission shall have and may exercise all legislative powers which this Charter could specifically enumerate as provided by the Constitution and the laws of the State of Michigan.

#### **Section 4.6 Ordinances and Resolutions**

The Commission shall act by ordinance if required by this Charter or law, otherwise by resolution. All acts of the Commission imposing a penalty shall be by ordinance.

#### **Section 4.7 Ordination, Adoption, and Publication**

The Commission shall, within 180 days after the effective date of this Charter, adopt an ordinance providing for codification of ordinances and the preservation and indexing of resolutions.

#### **Section 4.8 Vacancies**

**4.8.1** A vacancy occurs in the office of a Commissioner by death, resignation, removal of residency from the district, or removal from office.

**4.8.2** A vacancy shall be filled by appointment of a registered and qualified elector of the district in which he or she is to be appointed within 30 days by a Majority of Commissioners. The appointee shall take office upon filing the oath of office with the County Clerk after the meeting at which the appointment is made.

**4.8.3** If the vacancy is filled in the first year of the term, the appointee shall serve until a successor is elected in a special election called by the Commission in accordance with law. If the vacancy is filled in the second year of the term, the appointee shall serve out the unexpired term.

#### **Section 4.9 Removal for Incapacity**

A Commissioner may be removed from office upon the affirmative vote of not less than 3/4 of the Commissioners serving after a public hearing upon a finding that the Commissioner is unable by reason of incapacity to perform the duties of office. The decision of the Commission may be appealed by the Commissioner to the Circuit Court for a de novo review.

#### **Section 4.10 Independent Counsel**

Independent counsel may be retained by the Commission to provide legal services for specific projects or issues relative to its powers and duties as deemed necessary by the Commission. The process for retaining an independent counsel shall be established by an ordinance not subject to veto by the Executive. The independent counsel shall be an attorney or



attorneys licensed to practice law in Michigan. The independent counsel shall not be an Employee of the County.

## **ARTICLE V**

### **APPORTIONMENT AND ELECTIONS**

#### **Section 5.1 Apportionment of County Commission Districts**

The County Apportionment Commission shall establish Commission districts in the manner required by law within 60 days after the most recent final decennial census figures are certified by the United States Government. The districts shall be contiguous, compact, and as nearly square as practicable, depending on the geography of County area involved, without regard to partisan political advantage. The districts shall be drawn so that each city and township has the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district. All districts shall be single member districts and as equal in population as practicable. Townships, villages, cities, and precincts shall be divided only if necessary to meet the population standard.

#### **Section 5.2 County Apportionment Commission**

Unless otherwise required by law, the County Apportionment Commission consists of the County Clerk, the County Treasurer, the Prosecuting Attorney, and the statutory County chairperson of each of the 2 political parties whose candidates for Secretary of State received the most votes in the last election for that office. If the County does not have a statutory chairperson of a political party, the 2 additional members shall be a party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairperson of the state central committee for each of the political parties. The County Clerk convenes the Commission and the County Apportionment Commission shall adopt rules of procedure. Three members of the County Apportionment Commission shall constitute a quorum. All action is by Majority.

#### **Section 5.3 Apportionment Procedure**

Unless otherwise required by law, the County Apportionment Commission shall file an apportionment plan with the County Clerk, at which time the plan shall become effective. If the County Apportionment Commission has failed to submit a plan for the County within 60 days but not less than 30 days after the latest official published census figures are available or an extension granted by the Court of Appeals, any registered voter may submit a plan to the County Apportionment Commission for approval. From the plans submitted, the County Apportionment Commission shall choose a plan meeting the requirements of law. The plan chosen by the County Apportionment Commission shall be filed with the County Clerk within 30 days of the initial or extended deadline for filing its plan, at which time the plan shall become effective.

**Section 5.4 Appeal of an Apportionment Plan**

Unless otherwise provided by law, any registered voter of the County may, within 30 days of the filing of the plan with the County Clerk, petition the Court of Appeals to determine if the plan complies with the law and this Charter. A decision of the Court of Appeals may be appealed to the State Supreme Court as provided by law.

**Section 5.5 Final Apportionment Plan**

A final apportionment plan is effective until a new plan is adopted after release of the next United States official decennial census figures.

**Section 5.6 Elections**

The election of Countywide Elected Officials and Commissioners shall be conducted at the times and in the manner required by this Charter and law.

**ARTICLE VI**

**DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS**

**Section 6.1 Sheriff**

The department of sheriff is created. The head of the department is the elected sheriff.

**6.1.1** The powers and duties of the department are those provided by law for a county sheriff.

**6.1.2** The department may contract with units of government within the County to provide services to such units upon approval of the Executive and the Commission.

**Section 6.2 Prosecuting Attorney**

The department of prosecuting attorney is created. The head of the department is the elected prosecuting attorney.

**6.2.1** The powers and duties of the department are those provided by law for a prosecuting attorney.

**Section 6.3 County Clerk and Register of Deeds**

The departments of county clerk and register of deeds are created and shall remain combined as they existed at the effective date of this Charter. The head of the combined departments is the elected county clerk.

**6.3.1** The powers and duties of the department are those provided by law for county clerks and registers of deeds.

**6.3.2** The department shall maintain central records of the County as provided by law or ordinance. The county clerk, with the assistance of the Executive, shall preserve and keep all records and materials of the first and any future Charter Commission, including but not limited to, all audio and video recordings of the Charter Commission and its committees.

#### **Section 6.4 County Treasurer**

The department of county treasurer is created. The head of the department is the elected treasurer.

**6.4.1** The powers and duties of the department are those provided by law for a county treasurer, including the receipt, deposit, and investment of funds belonging to and under the control of the County.

#### **Section 6.5 Public Works**

The department of public works is created. The head of the department is the elected public works commissioner.

**6.5.1** The powers, duties, and functions of the department are the powers, duties, and functions of the public works commissioner combined with the powers, duties, and functions of the drain commissioner as existed at the effective date of this Charter.

**6.5.2** The public works commissioner shall be elected in the same manner and for the same term as a county drain commissioner as provided by law.

#### **Section 6.6 General Provisions**

**6.6.1** The Countywide Elected Officials provided for in this Article shall be elected on a partisan basis. The powers and duties specifically delegated by this Charter to departments created by this Article shall not be reassigned by an Organization Plan, but additional powers and duties may be assigned by an Organization Plan to any department.

**6.6.2** The Countywide Elected Officials provided for in this Article shall manage their departments and exercise their powers and duties within authorized budget appropriations. These departments are part of County government and do not exist as separate or independent entities except as provided by law.

**6.6.3** A vacancy in an office created under this Article occurs, and shall be filled within 90 days, in the manner provided by law. If the next general November election is to be held more than 182 days after the vacancy occurs, and is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold

office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

**6.6.4** The existence, organization, qualifications, powers, and duties of the Countywide Elected Officials and departments created by this Article shall continue as they existed upon the effective date of this Charter, but shall be subject to the following:

- (a) The Michigan Constitution and state law;
- (b) All Charter provisions of general or specific applicability; and
- (c) All personnel, budgeting, and expenditure recommendations of the Executive as approved by the Commission.

**6.6.5** The Countywide Elected Officials provided for in this Article shall not cause the expenditure of taxpayer funds or public monies for legal counsel unless permitted by law, but may seek advice and counsel from Corporation Counsel upon request. If a Countywide Elected Official provided for in this Article desires to protect or seek authority to implement the rights, powers, and duties of the office, the Executive may authorize the use of Corporation Counsel, or the Commission may authorize the use of independent legal counsel, to seek injunctive, mandamus, or declaratory relief from a court of competent jurisdiction to clarify or enforce the rights, powers, and duties of the office. Individual departments shall not file suit against each other, and any action against the County shall name the County as a party. All actions relating to the rights, powers, or duties of a Countywide Elected Official provided for in this Article shall be solely for injunctive, mandamus, or declaratory relief against the County.

## **ARTICLE VII**

### **ADDITIONAL DEPARTMENTS AND OFFICES**

#### **Section 7.1 Planning and Economic Development**

**7.1.1** The department of Planning and Economic Development is created. The department shall:

- (a) Promote, coordinate, and oversee economic development initiatives within the County, including those that receive or will generate public funds;
- (b) Prepare comprehensive plans for economic development and represent the County in economic development planning activities with other jurisdictions;
- (c) Assist the Executive in planning related to the properties owned by the County, and undertake planning for the development of those properties;
- (d) Make available to cities, townships, and villages in the County, at their request, advice and assistance on matters related to planning functions of the County; and
- (e) Address matters related to the planning functions of the County.

## **Section 7.2 Health and Community Services**

**7.2.1** The department of Health and Community Services is created. The department shall:

- (a) Supervise and carry out the performance of County public health and community service programs; and
- (b) Supervise and carry out environmental protection programs.

**7.2.2** The office of senior services is created. The office shall coordinate the operations of the County that provide services for the aging and senior citizens, and shall serve within County government as the advocate for senior citizens. The office shall be supervised by an Appointee of the Executive subject to confirmation by the Commission. The coordination of services for the aging and for seniors and the advocacy for senior citizens may not be removed from this office by an Organization Plan.

## **Section 7.3 Human Resources and Labor Relations**

**7.3.1** The department of Human Resources and Labor Relations is created. The department of Human Resources and Labor Relations shall:

- (a) Formulate and direct the County's overall human resource program;
- (b) Negotiate all labor and employee relations matters on behalf of the County;
- (c) Administer collective bargaining agreements of the County;
- (d) Establish employment specifications and protocols for County Employees not covered by civil service; and
- (e) Assist the civil service commission.

**7.3.2** Notwithstanding the requirements set forth in Section 7.3.1, the Executive shall submit all collective bargaining agreements to the Commission for final ratification or rejection.

## **Section 7.4 Finance**

The department of Finance is created. The department of Finance shall:

- (a) Effectuate the provisions of Article VIII of this Charter; and
- (b) Administer financial affairs of the County in accordance with law.

## **Section 7.5 Corporation Counsel**

**7.5.1** The office of Corporation Counsel is created. Corporation Counsel shall be the chief legal counsel to the County and:

- (a) Direct and supervise the office of Corporation Counsel;
- (b) Represent the County, the Executive, the Commission, the department heads, and Agencies in civil legal matters affecting the County, except as provided by Charter, law, or ordinance; and

- (c) Represent the Countywide Elected Officials created by Article VI in the manner provided in Article VI of this Charter.

**7.5.2** Corporation Counsel shall be appointed by the Executive and confirmed by the Commission.

**7.5.3** Corporation Counsel may:

- (a) Hire assistant attorneys within budgetary appropriations in accordance with the policies of the County;
- (b) Appoint special counsel upon approval of the Commission; and
- (c) Keep the Executive and the Commission advised on pending litigation matters on a periodic basis.

**7.5.4** Corporation Counsel and all assistant attorneys shall be licensed to practice law in the State of Michigan.

**7.5.5** The Executive and the Commission shall include in the general fund of the annual budget for each fiscal year, such sums as the Executive and the Commission deem necessary for the Corporation Counsel to carry out its duties.

## **Section 7.6 General Provisions Governing Departments and Agencies**

Agencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, law, Organization Plan, or the Executive.

## **Section 7.7 Directors**

Each department created in this Article shall be headed by an at will director. With the approval of the Executive, a director may hire employees within budgetary appropriations in accordance with the policies of the County.

# **ARTICLE VIII**

## **FINANCE**

### **Section 8.1 Financial Management Principles**

The County shall employ generally accepted principles of accounting, auditing, and reporting appropriate for local government and as required by law.

### **Section 8.2 Fiscal Year**

The fiscal year of the County shall be established by ordinance as permitted by law.

### **Section 8.3 Independent Audit**

**8.3.1** The Commission shall establish from its members an Audit Committee. The Executive, with the consent of the Audit Committee, shall hire an independent certified public accountant to conduct an annual independent audit as required by law. The Audit Committee shall cause to be conducted such other audits as determined necessary by the Audit Committee, subject to the appropriations in the County's annual budget for such purpose.

**8.3.2** Financial reports and audits shall be prepared, transmitted, and filed as required by law and ordinance and shall be available for public inspection.

### **Section 8.4 Debt Limit and Borrowing Authority**

The County may borrow in accordance with applicable law, except the County shall not incur any indebtedness which shall exceed 10% of the state equalized value of the taxable property within the County.

### **Section 8.5 Taxing Authority**

**8.5.1** The County may by ordinance levy and collect any tax, fee, rent, toll, or excise authorized by law.

**8.5.2** The County may levy an ad valorem property tax not in excess of 1% of the state equalized valuation of the taxable property within the County. The levy of taxes from within the ad valorem property tax limitation shall not exceed, unless otherwise approved by the electors, 5.19 mills as is adjusted currently and may be adjusted in the future by applicable constitutional and statutory requirements. An increase in the tax authorization may be approved by the voters of the County for a period of not more than 20 years.

### **Section 8.6 Budget Preparation and Transmittal**

**8.6.1** The Executive shall prepare and administer a comprehensive balanced budget in a manner which assures coordination among Agencies. The Executive shall transmit the comprehensive balanced budget for the next fiscal year to the Commission at least 90 days before the next fiscal year begins. The comprehensive balanced budget prepared and recommended by the Executive shall contain, at a minimum, the budget message, budget document, the proposed appropriations ordinance containing the information required by law, and any information required by the Commission, law, or ordinance.

**8.6.2** Not less than once each year the Executive shall submit to the Commission a proposed long-range capital improvement program and capital budget.

## **Section 8.7 Adoption of Line Item Operating Budget**

Before the beginning of each fiscal year of the County, the Commission shall adopt a balanced line item operating budget and an appropriations ordinance in accordance with the requirements of law.

## **Section 8.8 Budget Deficits**

**8.8.1** If a deficit condition exists at the end of any fiscal year, the Executive shall submit to the governor and state legislature, upon approval by the Commission, a specific 5-year plan for short-term financial recovery and long-term financial stability prior to the adoption of the next annual budget. The 5-year plan shall include those items required by law.

**8.8.2** As used in this Section, and unless otherwise provided by law, the term “deficit condition” means a situation where, at the end of a fiscal year, total expenditures, including an accrued deficit, exceed total revenues for that fiscal year, including any surplus carried forward.

## **Section 8.9 Transfers and Impoundments**

Transfers among appropriations and impoundments of appropriations may only be made in accordance with the appropriation ordinance as adopted or amended.

## **Section 8.10 Purchasing**

The Commission shall adopt comprehensive policies and procedures governing the awarding of contracts, including the procurement and handling of services, supplies, materials, and equipment. These policies shall be consistent with federal and state law, the Charter, and ordinances, resolutions, and policies of the Commission. The Executive shall implement the policies adopted by the Commission, including requirements for competitive bidding and the use of sealed bids for purchases and contracts specified by ordinance.

## **Section 8.11 Budget Reductions**

**8.11.1** If the Executive certifies to the Commission a reduction in estimated revenue of any type that would cause an expenditure of an approved appropriation to exceed the available revenue and submits a proposed appropriation reduction, the Commission shall reduce appropriations to avoid the deficit. If the Commission fails to amend the appropriation ordinance within 45 days after the certification of the reduced revenue, the requested appropriation reduction submitted by the Executive becomes effective.

**8.11.2** If the Executive certifies to the Commission that expenditures have exceeded appropriated levels and submits a proposed appropriation amendment, the Commission shall amend appropriations to avoid the deficit. If the Commission fails to amend the appropriation ordinance within 45 days after the certification of the excess expenditures, the requested appropriation amendment submitted by the Executive becomes effective.



## **ARTICLE IX**

### **RETIREMENT SYSTEM**

#### **Section 9.1 Retirement System**

The Macomb County Retirement System created by ordinance in effect at the time of adoption of this Charter shall continue. The accrued rights and benefits of the Countywide Elected Officials, Commissioners, and Employees of the County are recognized and this Charter shall not infringe upon or be in derogation of those accrued rights and benefits. The Commission may amend the ordinance creating the County Retirement System.

#### **Section 9.2 Retirement Commission**

The Retirement Commission existing when this Charter becomes effective shall continue, except the County's representatives on the Retirement Commission shall be the Executive or designee; the County Treasurer or designee; and the Chair of the Commission or designee. The remaining 4 members shall consist of the Chair of the Road Commission of Macomb County or designee, or director of the department responsible for its functions if the Road Commission of Macomb County is reorganized, and 3 active Employees elected by active Employees in the manner provided by the rules and regulations adopted by the Retirement Commission. One additional non-voting member shall be elected by retired County employees in the manner provided by rules and regulations to be adopted by the Retirement Commission. The term of each elected member is 3 years, with 1 term expiring each year unless otherwise provided by ordinance. Active Employees holding a position when this Charter becomes effective shall continue in those positions for the term to which they were elected. The Retirement Commission shall administer and manage the Retirement System. The costs of administration and management of the Retirement System shall be paid from the investment earnings of the Retirement System.

## **ARTICLE X**

### **SPECIFIC POWERS AND PROVISIONS**

#### **Section 10.1 Civil Service**

A system of civil service in effect at the effective date of this Charter shall be continued. The rights and status of persons in the civil service system are recognized and this Charter shall not infringe upon nor be in derogation of those rights and that status. This Charter does not preclude future modification of the system of civil service in the manner provided by ordinance and as permitted by law.

## **Section 10.2 Initiative, Referendum, and Recall**

**10.2.1** The people of the County reserve the powers of initiative and referendum as provided by law. The process for the exercise of such powers shall be established by ordinance. The power of initiative may be invoked by petition signed by registered electors constituting not less than 8 percent, and the power of referendum may be invoked by petition signed by registered electors constituting not less than 5 percent, of the total vote cast within the County for all candidates for governor at the last preceding general election at which a governor was elected. The power of referendum does not extend to ordinances making or reducing appropriations.

**10.2.2** The people of the County reserve the power to recall Countywide Elected Officials and Commissioners as provided by law.

## **Section 10.3 Insurance and Bonding**

Any Agency not under the direct supervision of the Commission before the effective date of this Charter shall provide to the County such insurance, bonds, and contributions to self insurance programs as the Executive shall require, upon approval by the Commission.

## **Section 10.4 Public Utilities**

The acquisition, operation, and sale of public utility facilities by the County for furnishing light, heat, or power are subject to the restrictions imposed on cities and villages by the Constitution and applicable law.

## **Section 10.5 Charter Amendment**

**10.5.1** Amendments may be proposed to this Charter by petition of the registered electors of the County. A petition shall include the full text of the proposed amendment, and be signed by registered electors of the County constituting not less than 10 percent of the total votes cast for all candidates for governor at the most recent gubernatorial election. The procedures for proposing amendments to this Charter shall be established by ordinance.

**10.5.2** Amendments to this Charter may be proposed by resolution adopted by at least 2/3 of the Commissioners serving. A proposed amendment shall be submitted to the electors at the next general election following adoption of the resolution. If a majority of electors approve a proposed amendment, it becomes part of this Charter 45 days after certification of the election at which it was approved.

**10.5.3** At the general election to be held in the year 2014, and in each 10<sup>th</sup> year thereafter, the question of a general revision of this Charter shall be submitted to the electors of the County. If a majority of the electors voting on the question decide in favor of a charter commission being elected in accordance with state law for such purpose, the provisions of state law shall govern to create a Charter Commission to prepare and present an amended or new county charter to the electors.

## **Section 10.6 Effect of Removal, Resignation, or Retirement**

**10.6.1** A person who has been removed from office pursuant to this Charter or state law, or who has resigned from office after a petition for recall has been filed with the County Clerk, or in anticipation of disciplinary action, or after a complaint or investigation has been received or undertaken by the Ethics Board, is not eligible to be elected or appointed to any County office for 2 years after such removal or resignation.

**10.6.2** No full-time employee who has retired from County service shall be re-employed in the same capacity, whether by contract or otherwise, within 1 year after the person's retirement benefit commences, unless:

- (a) An applicable collective bargaining agreement specifically allows for such return;
- (b) The individual returns pursuant to a deferred retirement option program contract;  
or
- (c) The Executive recommends and the Commission approves the re-employment.

## **Section 10.7 Public Defender**

The creation of an office of Public Defender is authorized.

## **Section 10.8 Additional Functions or Services**

The County may perform any function or service, and establish or maintain any facilities, not prohibited by law which are necessary or beneficial to the public health, safety, and general welfare of the County. However, powers granted solely by this Charter may not be exercised by the County in a local unit of government which is exercising a similar power without the consent of the local legislative body.

## **Section 10.9 Economic Development**

The County may create and implement economic development programs, including: (1) the provision of grants for capital development, job creation, and the retention of jobs and capital; (2) the granting of tax abatements; (3) the provision of other incentives for private development; and (4) the exercise of any other power provided by law. The County Executive shall administer economic development programs, in coordination with the Director of Planning and Economic Development, pursuant to an ordinance adopted by the Commission or as provided by law.

## **Section 10.10 Oath of Office**

The Countywide Elected Officials and Commissioners shall take and subscribe to the oath as provided in Section 1 of Article 11 of the Constitution before entering upon the duties of office.

## **Section 10.11 Compensation**

**10.11.1** The Commission shall establish the compensation of Countywide Elected Officials and Commissioners by ordinance. An increase in compensation for a Countywide Elected Official or Commissioner is not effective until the commencement of a new term and the ordinance shall be adopted before the next candidate filing deadline for the office.

**10.11.2** The Commission shall not utilize any means or mechanism, whether available under state law or otherwise, which would result in a compensation adjustment or recommendation for Countywide Elected Officials or Commissioners that would become effective without adoption by the Commission.

## **Section 10.12 Removal from Office**

In addition to other removal processes provided by law, a Public Servant or contracted employee of the County not subject to a collective bargaining agreement or civil service may be removed from office or employment by the following process:

(a) The Ethics Board has the authority to recommend removal for criminal or corrupt conduct arising out of or occurring in the course of the conduct of the Public Servant. If the Ethics Board finds by a preponderance of the evidence that a Public Servant or contracted employee of the County has committed criminal or corrupt conduct arising out of or related to the conduct of the person's office or position, the Ethics Board shall refer the matter to the Commission, or other appropriate official or agency, for removal from office or employment. A Majority of the Ethics Board shall be necessary to adopt a recommendation for removal.

(b) Every recommendation for removal that is received from the Ethics Board shall be deliberated and decided by the Commission. The Commissioners shall truly and impartially try and determine the recommendation for removal according to the evidence. A resolution for removal from office or employment shall be approved by a roll call vote of 2/3 of the Commissioners serving.

(c) The Commission shall provide by ordinance for the process that will govern consideration of recommendations for removal made by the Ethics Board in accordance with this section. The standard for removal shall be, at a minimum, a preponderance of the evidence. Such process shall be modeled, to the extent practical, after the impeachment process set forth by law for removal of civil officers. The ordinance may allow for the adoption of rules and regulations to be followed by the Commission when conducting a hearing on a recommendation for removal.

## **Section 10.13 Veterans' Affairs**

The Department of Veterans' Affairs existing at the time this Charter becomes effective shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of available millage funding for veterans' affairs.

### **Section 10.14 Community Mental Health**

The Community Mental Health Agency existing at the time this Charter becomes effective, including its administration of substance abuse services, shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of state and federal funding for community mental health.

## **ARTICLE XI**

### **TRANSITIONAL PROVISIONS**

#### **Section 11.1 Ordinances Continued**

Ordinances, resolutions, rules, and regulations in force when this Charter takes effect shall remain effective unless changed by this Charter or an ordinance or resolution adopted under this Charter.

#### **Section 11.2 Laws Continued**

The general statutes and local acts of this State regarding counties and Countywide Elected Officials and Commissioners shall continue in effect except to the extent that this Charter provides otherwise.

#### **Section 11.3 Succession of County Rights**

The County, as created and structured under this Charter, succeeds to and is vested with the property, real and personal, money, rights, credits, and effects, and the records, files, books, and papers belonging to the County as it formerly existed. Neither the rights nor the liabilities existing when it becomes a Home Rule County, nor a suit or prosecution of any kind commenced before, and continuing at the time it becomes a Home Rule County is, in any manner, affected by the change, but is to continue, stand, or progress as if the change had not been made. The debts and liabilities of the County, the authorized tax rates approved by the voters, and taxes and assessments levied and uncollected at the time of the change remain effective until they expire, are discharged, or collected the same as if the change to home rule had not been made.

#### **Section 11.4 Continuity of Government**

Except as provided in this Charter, all existing County offices, boards, commissions, and departments existing on the date this Charter becomes effective shall continue and perform their duties unless reorganized or discontinued by an Organization Plan. Committees of the Commission established before the effective date of this Charter shall cease to exist but new committees may be created by the Commission.

## **Section 11.5 Road Commission of Macomb County**

**11.5.1** Subject to subsection 11.5.2, the Road Commission of Macomb County, consisting of 3 members, 1 of whom shall be a resident of a township within the County, is created pursuant to this Charter as required by law. The Road Commission of Macomb County existing prior to the effective date of this Charter shall continue and becomes the home rule Road Commission of Macomb County created by this section unless reorganized as permitted or required by law. All applicable requirements of the Michigan Constitution and state law shall continue to govern the Road Commission of Macomb County. This Charter shall not be construed in derogation of the powers and duties of the Road Commission of Macomb County in the exercise of its statutory duties.

**11.5.2** If the voters of the County, pursuant to law, approve the reorganization of the board of county road commissioners, the Road Commission of Macomb County existing prior to the effective date of this Charter shall cease to exist and all duties and functions of the Road Commission of Macomb County shall be assumed by a Department of Roads, which shall be subject to an Organization Plan with its core functions remaining intact.

## **Section 11.6 Continuation of Previously Approved Tax Authorizations**

All tax authorizations in effect at the effective date of this Charter shall remain in effect at the levels and for the years so authorized. Authorized taxes as approved by the electorate shall not be increased or decreased by the enactment of this Charter.

## **Section 11.7 Salaries and Benefits on Effective Date of Charter**

**11.7.1** The initial compensation for the first Executive who takes office when this Charter becomes effective shall be 8 times the minimum salary authorized for the lowest paid full-time County Employee on the date the Charter becomes effective. The Commission shall determine the compensation of the initial Executive for the remainder of the term of office by ordinance within 60 days of the effective date of this Charter.

**11.7.2** The initial benefits for the first Executive who takes office when this Charter becomes effective shall be the same as those provided to the other Countywide Elected Officials.

**11.7.3** The salaries and benefits for the first Countywide Elected Officials provided for in Article VI who are already serving when this Charter becomes effective shall be continued until modified as permitted by this Charter or by law.

**11.7.4** The Organization Plan shall include the initial compensation for the directors of the departments established in Article VII and any other departments included in the Organization Plan. The compensation for all Appointees and Employees of the County at the effective date of this Charter shall be continued until modified as permitted by this Charter or law.

### **Section 11.8 Initial Organization**

The Executive shall have up to 180 days to submit to the Commission the first Organization Plan required by this Charter.

### **Section 11.9 Transitional Apportionment**

**11.9.1** The existing County Apportionment Commission shall provide the apportionment plan as provided by law for the initial election of Commissioners under this Charter in the 2010 primary and general elections.

**11.9.2** This section is effective upon adoption of this Charter.

### **Section 11.10 Effective Date**

This Charter takes effect on January 1, 2011.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

#### **Section 12.1 Public Meetings**

Meetings of the Commission and all other County boards, commissions, and committees shall be public as provided by law.

#### **Section 12.2 Freedom of Information**

County records are public to the extent provided by law.

#### **Section 12.3 Severability**

If any provision of this Charter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Charter.