

Village of New Haven

Ordinance No. ____

AN ORDINANCE PROHIBITING NON-DISCLOSURE AGREEMENTS BY ELECTED AND APPOINTED OFFICIALS ACTING IN THEIR OFFICIAL CAPACITY; PROVIDING FOR EXCEPTIONS REQUIRED BY LAW; DECLARING CERTAIN AGREEMENTS VOID AND UNENFORCEABLE; AND PROVIDING FOR ENFORCEMENT AND AN EFFECTIVE DATE.

Section 1. Findings; Purpose

The Village Council of the Village of New Haven finds and declares that transparency and openness in government are essential to maintaining public confidence and accountability. The public has a statutory right to access public records pursuant to the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq. Agreements that restrict disclosure of public business, when not otherwise required by law, are contrary to the public policy of the State of Michigan and the Village of New Haven. The purpose of this Ordinance is to prohibit elected and appointed officials from entering into non-disclosure agreements in their official capacity, except as expressly authorized by law, and to ensure that public business remains open and accessible to the public.

Section 2. Definitions

For purposes of this Ordinance: (1) 'Non-Disclosure Agreement' or 'NDA' means any agreement, provision, clause, or condition—whether written or oral—that purports to restrict, limit, or prohibit the disclosure of information. (2) 'Elected Official' means any individual elected to an office of the Village of New Haven. (3) 'Appointed Official' means any individual appointed to a Village board, commission, authority, committee, or other body established by statute, charter, ordinance, or resolution. (4) 'Official Capacity' means actions taken, communications made, or agreements entered into while performing duties or exercising authority on behalf of the Village of New Haven. (5) 'Public Funds' means any funds derived from taxation, fees, grants, settlements, or other sources under the control of the Village of New Haven.

Section 3. Prohibition on Non-Disclosure Agreements

An elected or appointed official of the Village of New Haven shall not enter into, agree to, request, require, or enforce a non-disclosure agreement while acting in their official capacity. This prohibition applies to any agreement related to Village business, including contracts, memoranda of understanding, separation agreements, and settlement agreements. No non-disclosure agreement shall restrict disclosure of information otherwise subject to disclosure under state law or Village ordinance.

Section 4. Settlement Agreements Involving Public Funds or Public Business

The Village shall not enter into any settlement agreement involving public funds or the resolution of public business that contains a non-disclosure agreement or confidentiality provision, except as expressly required by law. Any permitted confidentiality provision shall be narrowly tailored and shall not prohibit disclosure of the existence of the settlement, the identity of the parties, the factual basis of the claim, the amount of public funds paid or received, or any information otherwise required to be disclosed by law.

Section 5. Exceptions Required by Law

Nothing in this Ordinance shall be construed to prohibit confidentiality where disclosure is restricted by federal law, state law, administrative rule, court order, attorney-client privilege, attorney work product doctrine, Michigan Freedom of Information Act exemptions, or lawful protection of trade secrets or proprietary information of a third party.

Section 6. Retroactive Application; Existing Agreements

Any non-disclosure agreement entered into by an elected or appointed official in their official capacity prior to the effective date of this Ordinance is declared void and unenforceable to the fullest extent permitted by law. Nothing in this section requires disclosure of information otherwise exempt under state or federal law.

Section 7. Enforcement; Remedies

A violation of this Ordinance constitutes misconduct in office and may subject the official to censure, removal, or other remedies authorized by law or the Village Charter. Nothing in this Ordinance limits whistleblower protections or the right to disclose unlawful conduct, waste, fraud, or abuse.

Section 8. Severability

If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions.

Section 9. Effective Date

This Ordinance shall take effect ___ days after adoption and publication as required by law.