

ORDINANCE NO. _____

AN ORDINANCE OF THE YOLO COUNTY BOARD OF SUPERVISORS TO SEPARATE
THE OFFICE OF THE PUBLIC GUARDIAN FROM THE OFFICE OF THE PUBLIC
ADMINISTRATOR, TERMINATE THE DESIGNATION OF THE PUBLIC
ADMINISTRATOR AS EX OFFICIO PUBLIC GUARDIAN AND APPOINT THE
DIRECTOR OF THE HEALTH AND HUMAN SERVICES AGENCY AS PUBLIC
GUARDIAN

The Board of Supervisors of the County of Yolo ordains as follows:

SECTION I. PURPOSE

The purpose of this Ordinance is to separate the office of the Public Guardian from the office of the Public Administrator, terminate the Public Administrator's designation as ex officio Public Guardian and designate the Director of the Health and Human Services Agency as the Public Guardian of Yolo County.

**SECTION II. ADDITIONS AND MODIFICATIONS TO TITLE 2 OF THE
YOLO COUNTY CODE**

Title 2 of the Yolo County Code is revised as follows:

1. Modification of Chapter 5, Article 9, Sections 2-5.901 and 2-5.902, as reflected in Attachment 1 to this Ordinance;
2. Addition of Chapter 5, Article 9, Section 2-5.903, as reflected in Attachment 1 to this Ordinance;
3. Modification of Chapter 5, Article 21, Sections 2-5.2103 and 2-5.2104, as reflected in Attachment 1 to this Ordinance; and
4. Modification of Chapter 6, Section 2-6.47.2, as reflected in Attachment 1 to this Ordinance.

SECTION III. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity and enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or their application to any other person or circumstance.

SECTION IV. EFFECTIVE DATE

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk of the Board shall cause this ordinance or a summary thereof to be published as required by law.

PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, on _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTION:

Jim Provenza, Chair
Yolo County Board of Supervisors

Attest:
Julie Dachtler, Deputy Clerk
Board of Supervisors

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Deputy (Seal)

By: _____
Julie Barga
Senior Deputy County Counsel

ATTACHMENT 1

Modifications to Chapter 5, Article 9:

Section 2-5.901. Office created.

There is hereby created in the County the office of Public Guardian, ~~and the Public Administrator is hereby designated as ex-officio Public Guardian. (§ I, Ord. 336)~~

Sec. 2-5.902. Representation by County Counsel: Employment of private counsel.

The ~~District Attorney~~County Counsel shall represent the Public Guardian; provided, however, the Public Guardian may, in his/her discretion, employ private counsel when the cost thereof can be defrayed from guardianship or conservatorship estate funds. ~~(§ II, Ord. 336)~~

Addition to Chapter 5, Article 9:

Section 2-5.903. Public Representative Payee

The Public Guardian is authorized to be the public representative payee and may discharge all duties as set forth in Government Code section 27436.

Modifications to Chapter 5, Article 21:

Section 2-5.2103. Director of the Health and Human Services Agency.

- (a) Under the general direction of the County Administrative Officer and the Board of Supervisors, the Director of the Health and Human Services Agency shall plan, organize, and direct all activities of the agency in accordance with applicable federal, state, and local laws and regulations. The Director of the Health and Human Services Agency shall be appointed and serve at the will of the County Administrator.
- (b) The responsibilities, authorities, and duties of the following positions are consolidated with the position of the Health and Human Services Agency Director:
 - (1) Director of Employment and Social Services
 - (2) Director of Social Services
 - (3) Health Director
 - (4) Welfare Director
 - (5) Public Guardian
- (c) In addition, if the Director possesses all of the necessary qualifications and is appointed by the Board of Supervisors (or County Administrator, in the case of the Drug and Alcohol Administrator position), he or she may hold the following positions included within the organizational structure of Agency:

(1) Mental Health Director, with qualifications subject to any regulations promulgated by the California Department of Health Care Services in accordance with Sections 5607, 5608, and 5751.1 of the Welfare and Institutions Code.

(2) County Health Officer, with qualifications subject to Health and Safety Code Section 101000 et seq.

(3) ~~Drug and Alcohol Administrator~~, with qualifications set forth in Section 11800 of the Health and Safety Code.

(4) Director of Public Health Nursing, with qualifications set forth in Section 101110 of the Health and Safety Code.

If the Director is not qualified to hold or elects not to hold any or all of the foregoing positions, such position(s) shall be filled in the manner required by law and shall remain within the organizational structure of the agency. To the extent the Board of Supervisors has the power to appoint and remove an individual holding a position within the agency, the Director may recommend that the Board suspend or remove any such appointee.

Section 2-5.2104. Organization of the Health and Human Services Agency.

- (a) The Director of the Health and Human Services Agency shall have the discretion to organize and administer functions within the agency to ensure services and benefits are provided to the public through an integrated and comprehensive health and human services system. Such discretion shall be exercised in accordance with then existing federal, state, and local laws, as well as County policies established by ordinance or resolution concerning any reorganization or restructuring of the functions and operations of a county department or division of a county department.

Notwithstanding anything in this chapter, however, the Director of the Health and Human Services shall not impede the Health Officer from carrying out the duties, services, or functions required by state law or other provisions of this code. Additionally, the Director shall allow the final determination regarding issues of professional nursing practice shall be made by a person who is licensed as a registered nurse and certified as a public health nurse.

- (b) The Director has authority to sign contracts binding on the County on matters within the purview of the agency, consistent with and subject to all County contracting policies. Such authority may be delegated in writing by the Director to other personnel that report directly to the Director.
- (c) Functions and responsibilities described in federal, state, and local laws relating to the positions identified in Section 2-5.2103, above, shall be performed by the Director or, for positions identified in Section 2-5.2103(c), by the appointee to each such position (if other than the Director) under the general oversight of the Director. As necessary or appropriate, such functions and responsibilities may be delegated to

appropriately qualified personnel within the agency. These functions and responsibilities include, but are not limited to:

(1) For mental health issues and the County alcohol and drug program, those matters described in Government Code Sections 24308 and 33200, Health and Safety Code Section 11800, and Welfare and Institutions Code Sections 5607, 5608, and 18966.86. The County alcohol and drug program shall be placed at the same administrative level and have responsibilities similar to other major health programs in the County.

(2) For public health issues within the statutory purview of the County Health Officer, those matters described in Government Code Sections 101025 through 101070. For all other public health issues, including public health and indigent health functions and operations, those matters described in Government Code Section 33201, and Health and Safety Code Section 101115.

(3) For social services, those matters described in Welfare and Institutions Code Section 10800 et seq.

(4) As Public Guardian, shall have all of the authority now or hereafter conferred on public guardians by law, and shall discharge all the duties now or hereafter imposed on public guardians by law.

(d) The Board of Supervisors, by ordinance or resolution, may create such subordinate positions in the agency established pursuant to this article, and set the salaries thereof, as may be necessary.

Modification to Chapter 6:

Section 2-6.47.2. Disciplinary action: Department heads.

(a) The provisions of Section 2-6.47 of this chapter shall not apply to department heads except as provided in this section. The discipline of department heads shall be as provided for in this section.

(b) Except as otherwise provided by State law or subsection (c) of this section, department heads shall serve at the pleasure of the appointing authority.

(c) The discipline of certain department heads is provided for by State law or other provisions of this Code as follows:

(1) Elected department heads are governed by the provisions of Section 25303 of the Government Code of the State.

(2) The Agricultural Commissioner and Sealer of Weights and Measures shall be governed by the provisions of Article 2 of Chapter 2 of Division 2 of the Food and Agricultural Code of the State (commencing with Section 2121).

(3) The County Counsel shall be governed by the provisions of Section 2-5.203 of Article 2 of Chapter 5 of this title and Section 27641 of the Government Code of the State.

(4) The County Administrative Officer shall be governed by the provisions of Article 3 of Chapter 5 of Title 2 of this Code.

(5) The Clerk of the Municipal Court/Administrator shall be governed by the provisions of Section 74963 of the Government Code of the State.

(6) The Probation Officer shall be governed by the provisions of subsections (a) and (b) of Section 2-6.47 of this chapter. Any disciplinary proceeding shall be governed by subsections (d) and (e) of this section.

(7) The Public Defender shall be governed by the provisions of Section 27703 of the Government Code of the State.

(8) The Public Guardian shall be governed by the provisions of Sections 2-5.901 through 2-5.903 of Article 9 of Chapter 5 of this title, by all applicable laws of the state, including, but not limited to, Government Code Sections 27430 et seq. and Sections 8000 and 8001 of the Welfare and Institutions Code of the State.

~~.(9) Deleted.~~

~~(109)~~ The Director of Social Services shall be governed by the provisions of Section 10801 of the Welfare and Institutions Code of the State, subsection (a) of Section 17035 of Title 2 of the California Administrative Code.

(d) Before an appointing authority subjects a department head to disciplinary action for which the law mandated prior notice and an opportunity for a hearing, the County Administrative Officer shall give the department head notice of the proposed action, the reasons for the proposed action, a copy of the charges and materials upon which the proposed action is based, and the right to respond, either orally or in writing. A department head who has exercised the right to respond may appeal such disciplinary action to the Board of Supervisors. A written demand for an appeal shall be filed with the Clerk of the Board of Supervisors within ten (10) days after the service of the order of disciplinary action. The Board of Supervisors may appoint a hearing officer to hear the matter and make a recommended decision to the Board. The Board of Supervisors may adopt a recommended decision, after argument, correct errors of law, or refer the matter for, or conduct, a rehearing on the merits in whole or in part.

(e) Within five (5) days following an order subjecting a department head to disciplinary action for which the law mandates an opportunity for a hearing after the order of disciplinary action, the department head may request a limited hearing by the appointing authority. Within ten (10) days following the receipt of the written request, the appointing authority shall apprise the department head of the action taken and the reasons therefor, provide for a copy of the charges, including the materials, upon which the action is based, and afford the right to respond orally or

in writing. After the conclusion of the limited hearing, the appointing authority shall make an order affirming, reversing, or modifying the disciplinary action. (§ 7, Ord. 905, eff. March 19, 1981, as amended by § 3, Ord. 1205, eff. January 13, 1997, § 3, Ord. 1206, eff. February 27, 1997, and § 1, Ord. 1224, eff. May 21, 1998)