



TROY CITY COUNCIL

SPECIAL MEETING AGENDA

**FEBRUARY 1, 2021
CONVENING AT 6:00 P.M.**

PERMITTED BY COUNCIL RESOLUTION #2020-11-162

FOR THE PURPOSE OF:

CITY COUNCIL CODE OF ETHICS

**Submitted By
The City Manager**

NOTICE: Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@troymi.gov at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.



500 West Big Beaver
Troy, MI 48084
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The Honorable Mayor and City Council Members

City of Troy
500 West Big Beaver
Troy, MI 48084

Dear Mayor and City Council Members:

In this packet, you will find the agenda for the City Council meeting. To help facilitate an informed discussion, the packet provides you with agenda items and additional details. The packet also contains recommended courses of action for your consideration and seeks to aid you in adopting sound policy decisions for the City of Troy.

This comprehensive agenda has been put together through the collaborative efforts of management and staff members. We have made all attempts to obtain accurate supporting information. It is the result of many meetings and much deliberation, and I would like to thank the staff for their efforts.

If you need any further information, staff is always available to provide more information and answer questions that may arise. You can contact me at CityManager@troymi.gov or 248.524.3330 with questions.

Respectfully,

Mark F. Miller,
City Manager



**CITY COUNCIL
SPECIAL MEETING AGENDA**

February 1, 2021 – 6:00 PM

View the Meeting Live at

www.troymi.gov/currentagenda

<u>A.</u>	<u>CALL TO ORDER:</u>	<u>1</u>
<u>B.</u>	<u>ROLL CALL:</u>	<u>1</u>
<u>C.</u>	<u>PUBLIC COMMENT:</u>	<u>1</u>
<u>D.</u>	<u>BUSINESS STATED IN THE SPECIAL MEETING NOTICE:</u>	<u>1</u>
D-1	City Council Ethics Study Session	1
<u>E.</u>	<u>OTHER BUSINESS:</u>	<u>1</u>
<u>F.</u>	<u>ADJOURNMENT:</u>	<u>1</u>
<u>2021 SCHEDULED SPECIAL CITY COUNCIL MEETINGS:</u>		<u>2</u>
February 3, 2021 Joint Meeting with Downtown Development Authority		2
March 10, 2021 Joint Meeting with Global Troy Advisory Committee.....		2
March 23, 2021 Personnel Evaluations		2
April 19, 2021 Budget Discussions		2
April 22, 2021 Budget Discussions		2
<u>2021 SCHEDULED REGULAR CITY COUNCIL MEETINGS:</u>		<u>2</u>
February 8, 2021 Regular Meeting		2
February 22, 2021 Regular Meeting		2
March 8, 2021 Regular Meeting		2
March 22, 2021 Regular Meeting		2
April 12, 2021 Regular Meeting		2
April 26, 2021 Regular Meeting		2
May 10, 2021 Regular Meeting.....		2
May 24, 2021 Regular Meeting.....		2
June 14, 2021 Regular Meeting.....		2
June 28, 2021 Regular Meeting.....		2
July 12, 2021 Regular Meeting		2
July 26, 2021 Regular Meeting		2

August 9, 2021 Regular Meeting	2
August 30, 2021 Regular Meeting	2
September 13, 2021 Regular Meeting	2
September 27, 2021 Regular Meeting	2
October 11, 2021 Regular Meeting.....	2
October 25, 2021 Regular Meeting.....	2
November 8, 2021 Regular Meeting	2
November 22, 2021 Regular Meeting	2
December 6, 2021 Regular Meeting	2
December 13, 2021 Regular Meeting	2

A. CALL TO ORDER:

B. ROLL CALL:

- (a) Mayor Ethan Baker
Edna Abraham
Mayor Pro Tem Theresa Brooks
Rebecca Chamberlain-Creangă
Ann Erickson Gault
David Hamilton
Ellen Hodorek

- (b) Absent Council Members:

Suggested Resolution

Resolution #2021-02-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of _____ at the City Council Special Meeting of Monday, February 1, 2021 due to _____.

Yes:

No:

C. PUBLIC COMMENT:

D. BUSINESS STATED IN THE SPECIAL MEETING NOTICE:

D-1 City Council Ethics Study Session

E. OTHER BUSINESS:

F. ADJOURNMENT:

Respectfully submitted,



Mark F. Miller
City Manager

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CITY COUNCIL AGENDA ITEM

Date: January 27, 2021
To: Troy City Council Members
From: Lori Grigg Bluhm, City Attorney
Subject: City Council Ethics Study Session

Some time ago, the Troy City Council provided unanimous consensus to schedule a study session on ethics. Although governmental ethics is always a high priority, this discussion was delayed until after the completion of the Plante & Moran investigative report. Unfortunately, further delays were caused by COVID and other time sensitive matters requiring immediate attention.

EXISTING PROVISIONS

Troy's Charter and Code of Ordinances impose ethics regulations on City Council members, Board and Committee members, and employees. Since at least 1976, the City has had an Employee Code of Conduct (Chapter 4 of the Troy City Code), as well as frequently updated Administrative Memos that facilitate these charter mandated duties of the City Manager, which fall outside the scope of this Memorandum. The following list is not exhaustive, but details action that rises to the level of Misconduct in Office, which is the threshold to take action beyond censure or reprimand.

Troy Charter Provisions

- **Section 4.6** addresses excessive absenteeism by allowing other Council Members to compel attendance; and requires the presiding officer to enforce orderly conduct at meetings, and all officers to be orderly in the meetings, with any violations declared misconduct in office.
- **Section 4.7** prohibits any Council Member from voting on any question in which he has a financial interest or on any question concerning her own conduct, and requires Council Members to vote on all other questions or be guilty of misconduct in office.
- **Section 4.8** empowers Council (or its delegate) to investigate any matter(s) in which the City has an interest, including the power to inquire into the conduct of any department, office, or officer and to subpoena documents and witnesses. Anyone failing to comply with the subpoena is guilty of misconduct in office, and also is in violation of the Charter, and if found guilty by a judge, can be punished with up to 90 days imprisonment and/or up to \$500 in fines. Council can seek relief from the Oakland County Circuit Court if its subpoena is ignored or refused, and face contempt of court charges for not obeying the Court's order.
- **Section 5.16** prohibits City employment of spouses of City Council members and the City Manager during their terms, and disqualifies their immediate family members from employment at the City unless six City Council members otherwise vote to approve.



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- **Section 6.4** specifies the circumstances that would justify City Council's removal of City Council members or board and committee members. Removal is allowed only where there is a state statute that empowers the Governor to remove a City officer for his/her conduct or for any act the Charter declares is misconduct in office. Before any action could be taken, there would need to be a due process hearing, with written detailed charges provided to the officer at least 10 days in advance. Failure of an accused officer to attend the hearing could automatically allow Council to pass a resolution authorizing removal. Otherwise, four Council members could vote to remove the officer if convinced there was misconduct in office.
- **Section 6.9** requires each officer to take the oath of office within ten days.
- **Section 6.12** prohibits the City from approving any contract or purchase when an elective or appointive officer or member of the officer's immediate family has a direct or indirect pecuniary interest. The one exception to this rule is if there are no feasible alternatives for the City to obtain comparative prices for goods or services, and all other members of Council (six) vote to allow business with the officer's business. Failure of an officer to disclose a pecuniary interest in a prospective City contract is guilty of misconduct in office.
- **Section 6.12 (e)** precludes officers from providing bonds or bail for any other person, and a violation is misconduct in office.
- **Section 6.12 (f)** requires all City Council members, Planning Commission members, Zoning Board of Appeals members, and Liquor Committee members to annually submit full disclosure statements to the City Clerk on or before April 15 of each year. Candidates for those offices are required to submit a full disclosure statement prior to appointment. These statements are available for public inspection, and require disclosure of all real estate ownership interests of the officer and immediate family members; business ownership interests by the officer or immediate family members that conduct business in the City; all political contributions, donations and/or gifts from land developers, real estate brokers, contractors, or other businesses requiring licenses, permits, zoning changes or variance requests received by the officer or his/her immediate family members. Failure to comply with this requirement could lead to removal from office. Chapter 14 of the City of Troy Ordinances provides additional details about the mandatory disclosure statements.

State Statutory Provisions

In addition to its Charter, the City of Troy is bound by provisions found in state statutes, including but not limited to the Home Rule Cities Act, the Whistleblower Protection Act, the Planning Enabling Act, the Zoning Enabling Act, the Open Meetings Act, and the Freedom of Information Act. City Council is familiar with the Sunshine Laws since they are frequently utilized in the ordinary course of business. Training on the applicable state statutes is provided to any incoming City Council or Board and Committee member. Nestled next to these laws are some additional statutes that protect the public.



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The Michigan Municipal League has prepared One Pager Fact Sheets on the following laws, which are attached here and also provided in the City Council orientation:

- ❖ **Misconduct in Office Act** (MCL 750.505)
- ❖ **Incompatible Offices Act** (MCL 15.181)
- ❖ **Standards of Conduct for Public Officers and Employees-** (MCL 15.341)- Attorney General has opined that it applies to local government officials (1981 OAG 6005)
- ❖ **Contracts of Public Servants With Public Entities** (MCL 15.321)

Administrative Memorandums

City employees are bound by collective bargaining agreements, employment handbooks, and many administrative memorandums. Some employees must also comply with departmental administrative memorandums and policies. There are primarily two Administrative Memorandums that could pertain to City Council members.

- ❖ First, there is the **Policy Prohibiting Harassment and Discrimination**, I-P-69, which is attached. This policy expressly applies to any harassment or discriminatory action by employees or elected officials, citizens, and volunteers. It details a policy for reporting to the Human Resources Director (or upper management) for investigation as to the merits of the complaint and follow up.
- ❖ Second, the **Whistleblowers Protection Act Policy- Reporting of Violations**, I-P-3, is also attached. This policy similarly reports a policy of reporting to the Human Resources Director, but also allows for complaints to be transmitted to City Council.

Council Rules of Procedure

The September 2020 Troy City Council Rules of Procedure, paragraph 2, requires City Council to review and acknowledge the Troy City Council Code of Ethics and the Board and Committee Code of Ethics annually in November. It also requires City Council Members to “*hold themselves to the highest level of integrity.*”

Troy City Council Code of Ethics

The Troy City Council annually reviews and approves the Troy City Council Code of Ethics, and it is prominently placed on the City Council webpage. It also approves a Code of Ethics for Board and Committee Members, which is very similar to the Council Code, but modified to differentiate the duties of board and committee members from city council members. The latest versions were amended in November 2020. The Troy City Council Code of Ethics, which is prominently displayed on the Council webpage, provides:

1. *The Troy City Council shall:*

- *Respect the confidentiality of privileged information;*
- *Recognize that an individual council member has no authority to speak or act for Council;*



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- *Work with other council members to establish effective policies;*
 - *Delegate authority for the running of the City to the administrative staff;*
 - *Encourage the free expression of opinion by all council members;*
 - *Seek systematic communications between council, administrative staff, and all elements of the community;*
 - *Render all decisions based on the available facts and independent judgment rather than succumbing to the influence of individuals or special interest groups;*
 - *Make every effort to attend all meetings;*
 - *Become informed concerning the issues to be considered at each meeting;*
 - *Avoid actual or apparent conflicts of interest, and make appropriate disclosures;*
 - *Refrain from using this position for personal benefit, nor for the benefit of family members or business associates;*
 - *Use the same care and caution when using electronic media as would be exercised when speaking face-to-face or through written memorandum;*
 - *Avoid use of derogatory or denigrating language;*
 - *Treat all people fairly and with dignity and respect;*
 - *Abstain from harassing or discriminatory behavior of any kind;*
 - *Other than receiving de minimis food and beverage in the course of official duties, such as grand openings, refuse any gift or gratuity or reward for an official action, and avoid any situation that could undermine public confidence.*
 - *Adhere to the following tenets in the ICMA Code of Ethics (revised 10/2019):*
 - *Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant. (Tenet 2)*
 - *Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order to merit the trust and respect of elected and appointed officials, employees, and the public. (Tenet 3)*
 - *Serve the best interest of the people. (Tenet 4)*
2. *Any City Council member may detail a suspected violation of this Code of Ethics by another City Council member, and forward this to the Troy City Council for action. The accused City Councilmember shall have an opportunity to respond to the allegations. If after considering all of the information, the Troy City Council determines that there was a violation of this Code of Ethics, then City Council may censure the offending City Council member, or take any other action that is allowed under the law, including but not limited to a request for a criminal misconduct investigation.*

The Troy City Council Code of Ethics relies on the ICMA Code of Ethics, which was most recently revised in June 2020. This updated version is included in the City Council packet.

ETHICS PROVISIONS IN OTHER COMMUNITIES

Council may find it helpful to review Ethics Ordinances from other communities. The City of Clawson recently passed its ordinance (March 2020), and Canton Township passed its ordinance in the summer of 2018, so these two recent examples are provided for City Council's review. Additionally, the Michigan Municipal League recommended other municipal ethics provisions, and some of them are attached for the ease of access. These are just a few of many samples. Since there was a



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request for a summary of provisions in other communities, the following non-exhaustive summary may be instructive.

Select Michigan Municipalities With Ethics Boards

- ❖ **Clawson**- attached ordinance adopted in 2020, creating a 3- member board of ethics that has jurisdiction over employees and officials, with the exception of those employees covered by a Collective Bargaining Agreement. Verified complaints are confidential. There is a due process hearing. If the City Council unanimously finds a violation of the code of ethics, reprimands or censures are appropriate. Upon information and belief, the board has not yet met.
- ❖ **Macomb Township**- attached ordinance was adopted in October 2019, and it creates a board of ethics to receive complaints against public officials and employees. It expressly recognizes the unique nature of collective bargaining agreements. The ethics board can investigate, or can hold hearings, and can make recommendations to the Township Board of Trustees. The website shows one meeting in 2019, which appears to be more of an organizational nature.
- ❖ **Canton Township**- attached ordinance adopted in 2018, creating 3-member ethics board that has jurisdiction over complaints filed against public officials, except those covered by collective bargaining agreements. According to their corporation counsel, this ethics board has not yet been appointed, and they still in the training stages. The ethics board is empowered to determine the sufficiency of a complaint, and the matter will proceed only if there is a reasonable basis to believe there was a violation. The ethics board transmits its recommendation to the Township Board. If 2/3 of the Township Board finds a violation, it directs the initiation of either criminal or civil proceedings seeking removal. Violations of the code of ethics can result in a criminal misdemeanor charge, where a special prosecutor will be appointed. Censure or reprimands can be issued with a 2/3 vote. There is a 4-year time limit.
- ❖ **Dearborn**- attached documentation summarizing Dearborn's ethics board process. It is a 7- person board, with the corporation counsel and human resources director serving with five citizens. Complaints can be filed against officers and employees, and are kept confidential unless a sub-committee, the probable cause review board, finds a complaint should be referred to the full ethics board.
- ❖ **Rochester**- ordinance adopted in 2009, and is very similar to Birmingham (same law firm). This ordinance governs public servants. I did not find any minutes. The board has 7 days to determine if a complaint has merit on its fact, or if the board has jurisdiction. There are penalties for any frivolous complaints, or ones that are intended to harass, embarrass, or for political advantage. Violations of the code of ethics are not crimes.
- ❖ **Birmingham**- ordinance adopted in 2003, applies to employees and city officials (elected and appointed). Three- member board that hears complaints or questions as to the applicability of the code of ethics to a particular situation. The board issues advisory opinions to the City Manager (for employees) and the Commission (officials). From the minutes, it looks like there were two decisions issued in 2019, where both complaints were dismissed as unfounded; two decisions in 2018 (unfounded), 0 decisions in 2017 and 1 in 2016 (unfounded).



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- ❖ **Livonia**- ordinance adopted in 1997. The 5- member board meets at least one time per year, and receives complaints about officials or employees, except those covered by a collective bargaining agreement. Complaints are confidential, and there is a due process hearing. If the ethics board finds violative conduct, they refer the matter. They also have the ability to issue advisory opinions. An assistant city attorney reports that the Livonia ethics board has not been very busy.

Select Municipalities Without Express Ethics Ordinances

- **Ann Arbor** includes ethics provisions in its City Council Rules. Persons can request reprimands of City Commission members. An administrative committee vets the complaints. A super-majority is required to approve a reprimand if substantiated. A copy of these rules is included in the City Council agenda packet.
-
- **Farmington Hills** has Charter and Code Provisions and Rules of Procedure provisions.
- **Farmington** has Charter and Code Provisions and Rules of Procedure provisions.
- **Novi** has an Ethics Policy, and Charter and Code Provisions. Novi also has the ICMA Standards of Conduct in its Code of Ethics on the City Manager page.
- **Rochester Hills** has an ordinance, Chapter 50, which sets forth the ethics code for employees and officials. All new officers and employees are required to acknowledge receipt of the code, and it is also required to be publicized annually.
- **Royal Oak** adopted its current version in 2013. The ordinance, Chapter 66, allows the Mayor or two Commissioners to file complaints against another Commissioner. If there is reasonable suspicion of a violation, the matter is referred to the City Attorney to obtain outside legal counsel for an investigation. The investigation results are presented to the entire City Commission, and a majority of Commissioners can set the matter for a due process hearing. There is a similar process for board and committee members. If substantiated, the remaining commissioners can censure, but this is not the exclusive remedy.
- **Southfield** has an Ethics Policy, and Charter, Code and Rules of Procedure provisions.
- **Sterling Heights** adopted a Resolution in 1990, and Council's Rules of Procedure expressly reference this Resolution, acknowledging that Council is subject to and governed by it. The Resolution is found on the City Council webpage.
- **Warren** passed an ordinance in 1980, which was amended in 1999. It incorporates Whistleblower protections and other ethical provisions, including a prohibition of conflicts of interest. It designates that any officer's violation of the ordinance could result in a warning or an oral or written reprimand.

Ethics—Misconduct in Office by Public Officers

Common law criminal offense

Misconduct in office by a public officer is a common law offense subject to the provisions of MCLA 750.505, MSA 28.773:

Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than five years or by a fine of not more than \$10,000.00, or both, in the discretion of the court.

Misconduct in office applies only to public officers

Misconduct in office applies only to public officers as distinguished from public employees. See *People v Coutu*, 450 Mich 348 (1999). In the *Coutu* decision, the Michigan Supreme Court held that deputy sheriffs are “public officers” for the purposes of the common law offense of misconduct in office. In order to be considered a public officer, five elements are required:

1. The position must have been created by the constitution or by the legislature or created by a municipality or other body through authority conferred by the legislature.
2. The position must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public.
3. The powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the legislature or through legislative authority.
4. The duties of the position must be performed independently and without control of a superior power other than the law, unless they be those of an inferior or subordinate office, created or authorized by the legislature, and by it placed under the general control of a superior officer or body.
5. The position must have some permanency and continuity, and not be only temporary or occasional.

Malfeasance, misfeasance, and nonfeasance

The offense of misconduct in office includes **malfeasance**, which is the doing of a wrongful act;

misfeasance, which is the doing of a lawful act in a wrongful manner; and

nonfeasance, which is the failure to perform an act required by the duties of the office.

It does not include acts done by officers in good faith or honest mistakes. The crime requires evidence of corrupt intent which does not necessarily mean, however, an intent to profit.

See also Fact Sheets covering Standards of Conduct for Public Officers and Employees, Incompatible Public Offices, and Contracts of Public Servants with Public Entities.

A public officer or public employee is prohibited from holding 2 or more incompatible offices at the same time. MCL 15.181(2)

Definition

Incompatible offices means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following:

- one office is subordinate to another
- one office supervises another
- a breach of duty of public office

The Michigan Attorney General has issued numerous opinions regarding the applicability of the Act to various public positions. See attached *Plus*.

The Michigan Supreme Court has also issued rulings regarding the Act including its most recent pronouncement in *Macomb County Prosecuting Attorney v Murphy*, 464 Mich 149 (2001). In that decision, the court held that incompatibility, under the third definition, i.e., a breach of duty of public office, occurs when the performance of the duties of one of the public offices “results in” a breach of duty. The court indicated that offices are not incompatible if a breach of duty *may* occur in the future or if a *potential* conflict exists. The court’s ruling may conflict with some of the attorney general’s prior opinions. The attorney general opinions listed on the attached *Plus* should be read in light of the *Macomb County* decision.

Exceptions applicable to municipal officers:

A public officer or employee may also serve as a member of a board of tax increment authority, downtown development authority, local development finance authority or brownfield redevelopment authority. MCL 15.183(3)

A public officer or employee of a municipality with a population of less than 25,000 may serve as an emergency medical services personnel. MCL 15.183(4)(a)

A public officer or employee of a municipality with a population of less than 25,000 may serve as a firefighter if the firefighter is not full-time, a fire chief, or a person who negotiates with the municipality on behalf of firefighters. MCL 15.183(4)(b)

A municipality with a population of less than 25,000 may, by council action, authorize an officer or employee to perform other additional services for the unit of government. MCL 15.183(4)(c)

**There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. See also OPPs covering Standards of Conduct for Public Officers and Employees, Misconduct in Office, and Contracts of Public Servants with Public Entities.

Selected Attorney General Opinions re: incompatible offices

AGO No. 6738	11/13/92	The positions of city councilperson and paid volunteer firefighter for the same city are compatible in a city with a population of less than 25,000, provided the individual is not a full-time firefighter, is not the fire chief and does not participate in negotiations with the city on behalf of the firefighters.
AGO No. 6711	02/14/92	Section 1(b) of 1978 PA 566 prohibits a village council member from simultaneously serving as village clerk.
AGO No. 6030	01/21/82	The offices of mayor of a city and city assessor of the same city are incompatible.
AGO No. 6854	06/08/95	The positions of a city council member and member of the city's board of public works are incompatible and may not be held simultaneously by the same person.
AGO No. 6691	08/14/91	The same person may not simultaneously serve as city manager and city clerk where the position of city clerk is subordinate to and subject to supervision by the position of city manager.
AGO No. 6611	02/23/90	The offices of city treasurer and school board trustee in the same city are incompatible under MCL 15.182; MSA 15.1120(122), and may not be held simultaneously by the same person.
AGO No. 6717	04/07/92	A person may not simultaneously serve as a member of the governing body of one unit of local government and as the attorney for a second unit of local government if the two units of government have entered into or are negotiating one or more contracts with one another.
AGO No. 6753	03/24/93	An individual may simultaneously serve on the city commission and the housing commission, if authorized to do so by the city commission, since the city has a population of less than 25,000.
AGO No. 6754	03/26/93	An elected city treasurer-assessor may also serve simultaneously on the governing board of the city's downtown development authority.
AGO No. 6816	09/08/93	The public positions of city councilperson and administrative assistant to a county commissioner are compatible and may be held simultaneously by the same person.
AGO No. 6269	01/29/85	The offices of village trustee and township clerk are not incompatible and may be simultaneously occupied by the same person, provided, however, that no contract is negotiated, approved or amended between the village and the township.

Ethics—Standards of Conduct for Public Officers/Employees

Introduction

1973 PA 196 is commonly known as the State Ethics Act. Section 2 of the Act sets out the standards imposed on public officers and employees. Of particular note are the following subsections:

A public officer or employee shall not engage in or accept employment or render services for a private or public interest when such employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or may tend to impair his or her independent judgment. MCL 15.342(6)

A public officer or employee may participate in making a governmental decision (MCL 15.342(3)) if the following requirements are met:

- a quorum is not otherwise available;
- the official is not paid for working more than 25 hours per week; and
- disclosure is made.

Further, an officer may participate in a governmental decision involving the award of a contract (MCL 15.342(4)) if the above requirements are met and, in addition,

- the officer will benefit in an amount less than \$250 or five percent of public cost of contract, and
- the officer files a sworn affidavit which is made part of the public record.

Definition of Public Officer

The definition of public officer, under the Act, is a person appointed by the governor or another executive department official. By virtue of a 1980 amendment, the definition was expanded, for purposes of MCL 15.342b which provides protection for a public officer or employee reporting a violation, to include an elected or appointed official of the state or a political subdivision of the state.

According to Michigan's attorney general, the amendment has imposed the ethical standards of section 2 of the Act (including subsections (6) and (7) set out above) on employees and officers of local units of government by providing protection to local officers and employees against job-related retaliation for "blowing the whistle" on local conduct in violation of the standards set forth in the act. See 1981 OAG 6005.

******There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. See *also* Ethics Fact Sheets covering Incompatible Public Offices, Misconduct in Office, and Contracts of Public Servants with Public Entities.

Ethics—Contracts of Public Servants with Public Entities

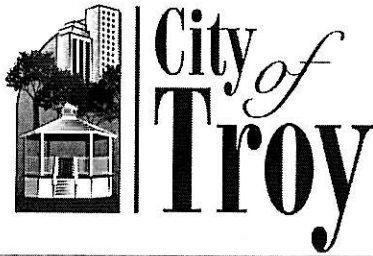
A public servant shall not be a party, directly or indirectly, to a contract with the public entity of which he or she is an officer or employee. MCL 15.322(l)

A *public servant* is defined as any person serving any public entity except a member of the Legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution. MCL 15.321(a).

Exceptions applicable to municipal officials:

- A public servant who is paid for working an average of 25 hours per week or less (MCL 15.323(l)(a)) if the following conditions are met:
 - o The public servant must disclose any pecuniary interest in a contract to the official body that has power to approve the contract. Unless he or she will directly benefit in an amount less than \$250 and less than 5 percent of the public cost and the public servant files a sworn affidavit to that effect or the contract is for emergency services or repairs, the public servant must notify the presiding officer or clerk in writing seven days before the meeting at which a vote is to be taken. The disclosure must be made public in the same manner as a public meeting seven days before the meeting at which the vote is taken. If the direct benefit to the public servant is more than \$5,000, the second method of disclosure must be followed. MCL 15.323(2)(a)
 - o The contract must be approved by not less than 2/3 of the full membership in open session without the vote of the public servant making the disclosure. MCL 15.323(2)(b)
 - o Summary information must be included in the official minutes. MCL 15.323(2)(c)
- Public servants of a municipality of less than 25,000 population may serve as emergency medical personnel. MCL 15.323a(a)
- A public servant of a municipality of less than 25,000 population may serve as a firefighter with the exception of a full-time firefighter, a fire chief, or a person who negotiates on behalf of firefighters. MCL 15.323a(b)
- A municipality with a population of less than 25,000 may authorize a public servant to perform other additional services for the unit of government. MCL 15.323a(c)
- A public servant may participate in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under the act to vote or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member's direct benefit from a contract is less than \$250 and less than 5 percent of the public cost of the contract, whichever is less, and the member files a sworn affidavit which is made a part of the record. MCL 15.323(3)

**There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. See *a/s/o* Fact Sheets covering Incompatible Public Offices and Standards of Conduct for Public Officers and Employees.



ADMINISTRATIVE MEMORANDUM

SUBJECT:

Policy Prohibiting Harassment and Discrimination

DATE OF ORIGINAL ISSUE:

December 8, 1988

EFFECTIVE DATE:

March 2, 2009

NUMBER:

1-P-69

RE-EVALUATION DATE:

March 2, 2010

RESCINDS:**LAST REVISION DATE:**

July 11, 2007

DISTRIBUTION:

All Employees and Volunteers

I. POLICY

It is the policy of the City of Troy to provide a work environment that is free of discrimination, intimidation, offensive behavior, and harassment by any individual against any other individual on the basis of sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight or "protected activity" (meaning opposition to discrimination or participation in proceedings covered by the anti-discrimination statutes). The City of Troy will investigate any complaint of conduct violating this policy. If a violation is found, the City of Troy will take prompt and appropriate corrective action, including discipline up to and including termination of employment where appropriate, to stop unwelcome behavior before it rises to the level of a violation of state or federal law.

For purposes of this policy, "individual" includes all City of Troy elected officials, employees, suppliers, independent contractors and their employees, officers and agents, appointees, citizens and volunteers.

The work environment can include off-site locations and encompass hours outside of the normal workday when the off duty conduct or behavior has a nexus or relationship to City employment.

II. DEFINITIONS AND PROHIBITIONS

Harassment or discrimination based upon sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height or weight is a violation of state and federal law and shall not be tolerated by the City of Troy. Neither will the City of Troy tolerate behavior under this policy which, by itself, may not be a violation of law but, if continued, may develop into illegal harassment or discrimination.

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Workplace harassment and discrimination can take many forms. It may consist of, but is not limited to, vulgarity, requests, gestures, written material, jokes, cartoons, pictures, posters, e-mail jokes or statements, pranks, intimidation, physical assaults or contact, or violence. For purposes of this policy, prohibited conduct includes, *but is not limited to*, the following:

Examples of Discrimination

- ▶ Treating an individual differently on the basis of his/her sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity, except when such treatment on the basis of religion or disability is pursuant to an accommodation or as permitted by State or Federal law.
- ▶ Disciplining an individual more harshly on the basis of his/her sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity.
- ▶ Segregating individuals on the basis of their sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity.
- ▶ Making decisions on the basis of sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity except when the decision is permitted by state or federal law on the basis of a bona fide occupational qualification.
- ▶ Stating or implying that an individual's deficiencies in performance are attributable in whole or in part to the individual's sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity.
- ▶ Making any adverse employment decision on the basis of an individual's disability when such disability is unrelated to the individual's ability to perform the essential functions of his or her job, with or without reasonable accommodation.
- ▶ Engaging in any practice that illegally uses sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity as a limiting criterion.
- ▶ Failing to accommodate an individual's religion or disability to the extent required by law.
- ▶ Stating or implying that an individual's advancement or lack of advancement has resulted from the acceptance, granting or refusal of sexual favors or a sexual relationship.
- ▶ Treating an individual differently or making an employment-related decision as a result of an individual's submission to, or rejection of, unwelcome sexual advances or requests for sexual favors.

Examples of Harassment

- ▶ Making unwelcome sexual advances or requests for sexual favors.
- ▶ Engaging in conduct based upon sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity which creates an intimidating, hostile or offensive environment, or has the purpose or effect of interfering with an individual's performance. The creation of an intimidating, hostile or offensive work environment may include, but is not limited to, such conduct as:
 - The display of degrading, offensive or inappropriate objects, photographs, drawings, cartoons, etc., regarding sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity.
 - Degrading, offensive, vulgar or inappropriate jokes, insults or commentary regarding sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity.
 - Derogatory statements regarding sex, race, color, national origin or ancestry, age, religion, marital status, pregnancy, veteran status, disability, height, weight, or protected activity not directed to an individual but taking place within the individual's hearing.
 - Comments regarding an individual's private sexual life.
 - Physical contact or exposure of an inappropriate, unnecessary or sexual nature.
 - Implicit or explicit pressures to participate in religious activities or services.

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III. NON-RETALIATION

The policy of the City of Troy also strictly prohibits any retaliation against an individual who has registered a complaint under this policy, or who has cooperated in the investigation of a complaint made pursuant to this policy. Any individual who has been determined to have retaliated against another individual for utilizing the complaint procedure or cooperating in the investigation of a complaint will be subject to appropriate discipline up to and including termination of employment. If an individual believes he or she has been retaliated against for exercising rights under this policy, the individual should use the complaint procedure set forth below.

IV. COMPLAINT PROCEDURE

1. Notice

An individual who believes he or she has been subjected to conduct by another individual which violates this policy shall report the incident to the appropriate

supervisor or, at the complainant's option, directly to the Human Resources Director. In the event that the Human Resources Director is alleged to be personally involved in the facts forming the basis of the complaint, the individual shall report the incident to the City Manager.

3/2/09

In the event that the City Manager is alleged to be personally involved in the facts forming the basis of the complaint, the individual shall report the incident to the City Attorney. Individuals are encouraged to immediately report violations of this policy. However, if an individual is unable to do so, such reports should be made within thirty (30) days or as soon as practicable. At complainant's option, the initial report may be made in writing on the attached complaint form. It is essential that individuals report all incidents of offensive or inappropriate conduct under this policy, even if the individual is unsure whether the offending behavior is considered harassment or discrimination.

2. Procedure

Upon the receipt of a complaint, the supervisor will direct the complainant to report the incident to the Human Resources Director who will designate an individual(s) to promptly conduct an investigation as set forth below. In the event that the Human Resources Director is alleged to be personally involved in the facts forming the basis of the complaint, the City Manager will designate an individual(s) to conduct the investigation. In the event that the City Manager is alleged to be personally involved in the facts forming the basis of the complaint, the City Attorney will designate an individual(s) to conduct an investigation.

7/11/07

- a. Review the complaint, attempt to obtain a signed complaint form if the complainant has not already submitted one, interview the complainant and document the interviews.
 - ◇ Obtain the names of witnesses who can substantiate the complainant's version of the events, interview the witnesses and document the interviews.
- b. Interview the person about whom the complaint was made and document the interview.
 - ◇ Review the City of Troy's Policy Prohibiting Harassment and Discrimination, including the prohibition against retaliation, with the person about whom the complaint was made.
 - ◇ Obtain the names of witnesses who can substantiate the version of events provided by the person about whom the complaint was made, interview the witnesses, remind them of the prohibition against retaliation, and document the interviews.
 - ◇ Review the records of the complainant and the person about whom the complaint was made.

10/1/05

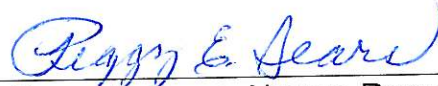
- ◇ Make a determination of the merits of the complaint.
- c. The individual(s) conducting the investigation will report the findings of the investigation to the Human Resources Director who will make the final determination of the merits of the complaint. In the event that the Human Resources Director is alleged to be personally involved in the facts forming the basis of the complaint, the City Manager shall review the findings and make the final determination of the merits of the complaint. In the event that the City Manager is alleged to be personally involved in the facts forming the basis of the complaint, the City Attorney shall review the findings and make the final determination of the merits of the complaint.
- d. If it is determined that the complaint is without merit, the following actions will be taken:
 - ◇ Document the findings and conclusions.
 - ◇ The findings and conclusions will be discussed individually with the complainant and the person about whom the complaint was made. In addition, individuals who need to know (in the opinion of the employer) will be advised of the findings and conclusions.
 - ◇ All references to the complaint will be removed from the personnel files of the person about whom the complaint was made and the complainant.
 - ◇ All documentation regarding the complaint and investigation will be maintained in a separate file. This file will be discarded by the employer three (3) years after the date of the findings and conclusions, unless litigation or charges have been brought relating to the complaint and investigation.
- e. If it is determined that the complaint has merit, the following actions will be taken:
 - ◇ Document the findings and conclusions.
 - ◇ A determination will be made as to what action is necessary to resolve the complaint and prevent reoccurrence.
 - ◇ The offender and complainant will be advised of the findings and conclusions of the investigation and the action to be taken.
 - ◇ Appropriate discipline will be imposed based upon the severity of the incident and the prior record of the offender. In the event that the penalty imposed is less than termination of employment, the City of Troy's Policy Prohibiting Discrimination and Harassment will be reviewed with the offender.

7/11/07

- ◇ The findings and conclusions as well as the documented disciplinary action will be placed in the offender's personnel file.
- ◇ All documentation regarding the complaint and investigation will be maintained in a separate file. This file will be discarded by the employer three (3) years after the date of the findings and conclusions, unless litigation or charges have been brought relating to the complaint and investigation.

V. RESPONSIBILITY/REPORTING

All employees of the City of Troy, particularly supervisors, have a responsibility for keeping our work environment free of conduct violating this policy. Any employee or supervisor who becomes aware of an incident of behavior towards another individual which may violate this policy, whether by witnessing the incident or being told of it, must report it to his/her immediate supervisor⁽¹⁾ who shall report it to the Human Resources Director. Supervisors have an obligation to stop observed violations of this policy immediately and to report them. Supervisors who do not stop observed violations of this policy or do not report incidents in accordance with this policy will be subject to discipline, up to and including termination. When management becomes aware of the existence of possible harassment, it is obligated by law to take prompt and appropriate action, whether or not the subject of the offensive behavior wants the employer to do so.



Peggy E. Sears, Human Resources Director

Approved:



Phillip L. Nelson, City Manager

JEM

⁽¹⁾ For Police Department employees, initial reporting should be to the appropriate Division Commander or any other supervisor of the employee's choosing. For Fire Department employees, the reporting should be to the Division Assistant Chief and then to the Fire Chief. For Fire Department volunteers, the reporting should be to the Volunteer Captain, Volunteer Assistant Chief, then to Fire Chief. All Fire and Police Department employees and volunteers may report complaints directly to the Human Resources Director.

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3/2/09

**HARASSMENT AND DISCRIMINATION
COMPLAINT FORM**

Date: _____

Name: _____

Job Title: _____ Dept: _____

Name of your supervisor: _____

Location of incident(s): _____

Name of person against whom complaint is made: _____

Job Title: _____ Dept: _____

List policy section(s) violated by accused individual (attach additional pages if necessary):

What is your complaint? (attach additional pages if necessary):

Can you describe any specific incidents that show that you were discriminated against or harassed? ☐ Yes ☐ No
If yes, please describe exactly what occurred, when it happened, and who observed or heard it happen (attach additional pages if necessary):

Please read the above carefully. Does it describe your complaint fully?

☐ Yes, this describes my complaint fully and accurately.

☐ This is accurate, but I would like to add the following (attach additional pages if necessary):

Date

Signature



ADMINISTRATIVE MEMORANDUM

SUBJECT:

Whistleblower Protection Policy – Reporting of Violations

DATE OF ORIGINAL ISSUE:

April 17, 1967

EFFECTIVE DATE:**NUMBER:**

1-P-3

RE-EVALUATION DATE:

August 2017

RESCINDS:**LAST REVISION DATE:**

August 23, 2016

DISTRIBUTION:

All Employees

PURPOSE

The purpose of this communication is to provide a procedure whenever an employee wishes to report an alleged violation of any State or Federal statute, City ordinance or Charter provision, personnel rule or administrative memorandum by any other employee or official of the City of Troy.

POLICY

It shall be the policy of the City of Troy to faithfully encourage its employees to report violations of State or Federal statutes, City ordinance or Charter provision, personnel rule or administrative memoranda or any attempt by a City official or City employee to discourage or interfere with such reporting.

No employee shall be discharged, threatened, or otherwise discriminated against regarding his/her compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of any State or Federal statute, City ordinance or Charter provision, personnel rule or administrative memorandum to any official or employee of the City of Troy unless the employee knows that the report is false. Nor shall an employee be discharged, threatened or otherwise discriminated against regarding their compensation, terms, conditions, location or privileges of employment because the employee is requested by the City of Troy or any other public body to participate in an investigation, hearing, or inquiry held by the City of Troy, or in a Court action.

REPORTING PROCEDURE

Whenever an employee believes that a City of Troy official, employee, supervisor, department head, city attorney or city manager has violated any State or Federal statute, City Ordinance or Charter provision, personnel rule or administrative memorandum (including for purposes of illustration, but not limited to theft, dishonesty, using City equipment for personal use, falsification of payroll records, violation of a purchasing procurement policy, and acts of harassment), the employee shall have the right and is encouraged to disclose and discuss the matter with his or her immediate supervisor, any other supervisor up to and including the City Manager, the Human Resource Director or the City Attorney. Should the employee believe that the City Manager or City Attorney has violated any State or Federal statute, City Ordinance or Charter provision, personnel rule or administrative

memorandum, the employee or any supervisory employee to whom the employee has reported the alleged violation shall have the right to report any alleged violations by the City Manager to the City Attorney or any alleged violations by the City Attorney to the City Manager. Alternatively, the employee or supervisory employee may report the alleged violation directly to the City Council or a member of City Council, at the employee's discretion.

The City official receiving a report of an alleged violation of any State or Federal statute, City ordinance or Charter provision, personnel rule or administrative memorandum shall review the allegations, and inform the reporting employee what steps will be taken, if any. If, after discussing the matter, the employee is not satisfied with this response, the employee shall have the right to report the matter directly to the City Manager, the City Attorney or the City Council or a member thereof. City Council supervises the City Manager and the City Attorney, and therefore the recipient of any report, as referenced above, alleging that either the City Manager or the City Attorney is suspected of violating a State or Federal statute, City Ordinance or Code, personnel rule or administrative memorandum must also provide the report to the entire Troy City Council within two business days. Upon receipt of any such report, the Troy City Council will have one week to either convene a Special Meeting or discuss at a regularly scheduled City Council meeting where to forward the report and any other necessary follow up matters. If City Council does not meet within one week of the notification, or provide any official direction, then the report recipient may then forward allegations concerning the City Attorney to the Michigan Attorney Grievance Commission for follow-up, and may forward allegations concerning the City Manager to the ICMA Committee on Professional Conduct through the Michigan Division. In no case shall this policy be interpreted to restrict in any way the rights of an employee of the City of Troy to report, verbally or in writing, a violation or suspected violation of a law or regulation or rule promulgated pursuant to law of this State, the City or the United States to any other public body, the Michigan Attorney Grievance Commission (if the report concerns an attorney), or the International City Manager's Association Committee on Professional Conduct (if the report concerns an ICMA member).

DISCIPLINE

Any employee who violates the provisions of this policy or the Whistleblowers' Protection Act will be subject to disciplinary action up to and including discharge.

Approved:



Brian M. Kischnick, City Manager



Troy City Council Code of Ethics

1. The Troy City Council shall:

- Respect the confidentiality of privileged information;
- Recognize that an individual council member has no authority to speak or act for Council;
- Work with other council members to establish effective policies;
- Delegate authority for the running of the City to the administrative staff;
- Encourage the free expression of opinion by all council members;
- Seek systematic communications between council, administrative staff, and all elements of the community;
- Render all decisions based on the available facts and independent judgment rather than succumbing to the influence of individuals or special interest groups;
- Make every effort to attend all meetings;
- Become informed concerning the issues to be considered at each meeting;
- Avoid actual or apparent conflicts of interest, and make appropriate disclosures;
- Refrain from using this position for personal benefit, nor for the benefit of family members or business associates;
- Use the same care and caution when using electronic media as would be exercised when speaking face-to-face or through written memorandum;
- Avoid use of derogatory or denigrating language;
- Treat all people fairly and with dignity and respect;
- Abstain from harassing or discriminatory behavior of any kind;
- Other than receiving de minimis food and beverage in the course of official duties, such as grand openings, refuse any gift or gratuity or reward for an official action, and avoid any situation that could undermine public confidence.
- Adhere to the following tenets in the ICMA Code of Ethics (revised 10/2019):
 - Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant. (Tenet 2)
 - Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order to merit the trust and respect of elected and appointed officials, employees, and the public. (Tenet 3)
 - Serve the best interest of the people. (Tenet 4)

2. Any City Council member may detail a suspected violation of this Code of Ethics by another City Council member, and forward this to the Troy City Council for action. The accused City Councilmember shall have an opportunity to respond to the allegations. If after considering all of the information, the Troy City Council determines that there was a violation of this Code of Ethics, then City Council may censure the offending City Council member, or take any other action that is allowed under the law, including but not limited to a request for a criminal misconduct investigation.

Signed this 9th day of November, 2020.

Mayor Ethan Baker

Council Member Edna Abraham

Mayor Pro Tem Theresa Brooks

Council Member Rebecca Chamberlain-Creanga

Council Member Ann Erickson Gault

Council Member David Hamilton

Council Member Ellen Hodorek



ICMA Code of Ethics with Guidelines

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in June 2020. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in June 2020.

The mission of ICMA is to advance professional local government through leadership, management, innovation, and ethics. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1. We believe professional management is essential to efficient and democratic local government by elected officials.

Tenet 2. Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant.

GUIDELINE

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities in order to uphold local government professionalism.

Tenet 3. Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

GUIDELINES

Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Length of Service. For chief administrative/executive officers appointed by a governing body or elected official, a minimum of two years is considered necessary to render a professional service to the local government. In limited circumstances, it may be in the best interests of the local government and the member to separate before serving two years. Some examples include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or significant personal issues. It is the responsibility of an applicant for a position to understand conditions of employment, including expectations of service. Not understanding the terms of employment prior to accepting does not justify

premature separation. For all members a short tenure should be the exception rather than a recurring experience, and members are expected to honor all conditions of employment with the organization.

Appointment Commitment. Members who accept an appointment to a position should report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time. However, once a member has accepted a formal offer of employment, that commitment is considered binding unless the employer makes fundamental changes in the negotiated terms of employment.

Credentials. A member's resume for employment or application for ICMA's Voluntary Credentialing Program shall completely and accurately reflect the member's education, work experience, and personal history. Omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a position should show professional respect for persons formerly holding the position, successors holding the position, or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report possible violations to ICMA. In reporting the possible violation, members may choose to go on record as the complainant or report the matter on a confidential basis.

Confidentiality. Members shall not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position that has an incumbent who has not announced his or her separation or been officially informed by the appointive entity that his or her services are to be terminated. Members should not initiate contact with representatives of the appointive entity. Members contacted by representatives of the appointive entity body regarding prospective interest in the position should decline to have a conversation until the incumbent's separation from employment is publicly known.

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization.

This guideline does not restrict personal friendships, professional mentoring, or social interactions with employees, elected officials and Board appointees.

Influence. Members should conduct their professional and personal affairs in a manner that demonstrates that they cannot be improperly influenced in the performance of their official duties.

Conflicting Roles. Members who serve multiple roles – either within the local government organization or externally – should avoid participating in matters that create either a conflict of interest or the perception of one. They should disclose any potential conflict to the governing body so that it can be managed appropriately.

Conduct Unbecoming. Members should treat people fairly, with dignity and respect and should not engage in, or condone bullying behavior, harassment, sexual harassment or discrimination on the basis of race, religion, national origin, age, disability, gender, gender identity, or sexual orientation.

Tenet 4. Serve the best interests of the people.

GUIDELINES

Impacts of Decisions. Members should inform their governing body of the anticipated effects of a decision on people in their jurisdictions, especially if specific groups may be disproportionately harmed or helped.

Inclusion. To ensure that all the people within their jurisdiction have the ability to actively engage with their local government, members should strive to eliminate barriers to public involvement in decisions, programs, and services.

Tenet 5. Submit policy proposals to elected officials; provide them with facts, and technical and professional advice about policy options; and collaborate with them in setting goals for the community and organization.

Tenet 6. Recognize that elected representatives are accountable to their community for the decisions they make; members are responsible for implementing those decisions.

Tenet 7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

GUIDELINES

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Elected Executives. Members shall not participate in the election campaign of any candidate for mayor or elected county executive.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

Tenet 8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

GUIDELINES

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

Tenet 9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

GUIDELINE

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

Tenet 11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

GUIDELINE

Equal Opportunity. All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members' personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

Tenet 12. Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

GUIDELINES

Gifts. Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

The term "Gift" includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

Members should not accept any gift that could undermine public confidence. De minimus gifts may be accepted in circumstances that support the execution of the member's official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

The guideline is not intended to apply to normal social practices, not associated with the member's official duties, where gifts are exchanged among friends, associates and relatives.

Investments in Conflict with Official Duties. Members should refrain from any investment activity which would compromise the impartial and objective performance of their duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict of interest, in fact or appearance, with their official duties.

In the case of real estate, the use of confidential information and knowledge to further a member's personal interest is not permitted. Purchases and sales which might be interpreted as speculation for quick profit should be avoided (see the guideline on "Confidential Information"). Because personal investments may appear to influence official actions and decisions, or create the appearance of impropriety, members should disclose or dispose of such investments prior to accepting a position in a local government. Should the conflict of interest arise during employment, the member should make full disclosure and/or recuse themselves prior to any official action by the governing body that may affect such investments.

This guideline is not intended to prohibit a member from having or acquiring an interest in or deriving a benefit from any investment when the interest or benefit is due to ownership by the member or the member's family of a de minimus percentage of a corporation traded on a recognized stock exchange even though the corporation or its subsidiaries may do business with the local government.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization. For example, if the member has a relative that works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members shall not disclose to others, or use to advance their personal interest, intellectual property, confidential information, or information that is not yet public knowledge, that has been acquired by them in the course of their official duties.

Information that may be in the public domain or accessible by means of an open records request, is not confidential.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements,

marketing materials, social media, or other documents, whether the member is compensated or not for the member's support. Members may, however, provide verbal professional references as part of the due diligence phase of competitive process or in response to a direct inquiry.

Members may agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.

2018 Ethics in Local Government Survey

Summary Report of Results

Ethics are a core element of ICMA's mission to advance the profession of local government management. Since the development of our Code of Ethics in 1924, ICMA has built an extensive collection of advice on ethics issues, case studies, and model local government documents. In 2018, ICMA partnered with Sacramento State University to track the current status of ethics standards/policies, staffing, and training in local governments. This survey was distributed to ICMA member chief administrative officers to answer on behalf of their local governments, which may operate under council-manager, mayor-council, or another form of government. A link to this survey was distributed via email to 3,093 ICMA members affiliated with U.S. municipalities, counties, councils of governments, and special districts. 838 members completed the survey, yielding a response rate of 27.1%. This report summarizes the survey highlights and overall responses.

Survey Highlights

- Just over half (53.9%) of respondents indicated that identification and resolution of ethical issues/violations are a routine part of their local government's organizational management. 55% have an established process for reporting ethics issues concerning their local government.

- 80.9% indicated they did not track or measure ethics violations (i.e., in aggregate or beyond the resolution of an individual issue).

- 84.6% of local governments allow ethics complaints to be made either anonymously or on the record, as opposed to only one method or the other.

- Few local governments reported having an ethics office/commission/board (12.8%) or ethics/compliance officer (13.2%).

- Nearly half (45.4%) of local governments are focused more on prevention of ethics issues; an additional 41.2% are focused equally on prevention and detection.

- However, it is less common for local governments to formally recognize ethical behavior. Just 23.9% reported doing so; others noted that ethical behavior is an expectation of public service.
 - Few local governments (15.5%) survey employees about ethics, ethics compliance, and organizational culture.
 - Nearly half (48.3%) incorporate ethics in the employee recruitment and selection process.

- 62.5% of local governments have established their own code of ethics/conduct. Of those, 70.5% were developed with input or leadership from the local government's staff.

- The top three topics covered by local codes of conduct and ethics training are conflicts of interest, acceptance of gifts or favors, and use of public resources. Approximately 60% or more of the respondents reported separate policies specific to outside employment, social media, and internet usage.

	Number Surveyed	Number Responding	Response Rate
Total	3,093	838	27.1%
Geographic Division			
New England	234	59	25.2%
Middle Atlantic	191	46	24.1%
East North Central	552	167	30.3%
West North Central	429	123	28.7%
South Atlantic	689	167	24.2%
East South Central	72	23	31.9%
West South Central	243	71	29.2%
Mountain	259	80	30.9%
Pacific	424	102	24.1%
Population			
250,000 and above	83	20	24.1%
100,000 - 249,999	175	47	26.9%
50,000 - 99,999	312	77	24.7%
25,000 - 49,999	479	120	25.1%
10,000 - 24,999	777	217	27.9%
5,000 - 9,999	573	149	26.0%
2,500 - 4,999	380	119	31.3%
Under 2,500	268	78	29.1%
Unknown	46	11	23.9%
Type of Government			
Municipality	2,735	731	26.7%
County	308	95	30.8%
Other	50	12	24.0%

Response Summary

1. Does your local government have an entity-wide ethics office, commission, or board?

n	Yes	No
836	12.8%	87.2%

2. Does your local government have an ethics/compliance officer?

n	Yes	No
836	13.2%	86.8%

3. If so, is this the employee's only function (i.e., the employee is solely dedicated to this purpose)?

n	Yes	No
105	2.9%	97.1%

4. What level of effort is dedicated to this employee's ethics/compliance function? (Percentage of FTE)

n	Median % FTE
84	10.0

5. To whom does the officer report? (n=104)

Chief administrative officer	51.0%
Chief elected official	22.1%
Other	20.2%
Ethics board or commission	3.8%
Human resource manager	2.9%

6. Are identification and resolution of ethical issues/violations a routine part of the local government's organizational management?

n	Yes	No
818	53.9%	46.1%

7. At what level does this process occur? (Check all that apply.) (n=434)

Entity-wide	82.9%
Department/division	44.5%

8. Do you have an established process for reporting ethics issues concerning your local government?

n	Yes	No	Not sure
755	55.0%	38.7%	6.4%

9. Which of the following are available for reporting ethics issues concerning your local government? (Check all that apply.) (n=618)

Form submitted to human resources	51.9%
Other	40.1%
Internally-managed hotline or mailbox	20.7%
Form submitted to compliance officer	14.4%
Externally-managed hotline or mailbox	12.9%

10. Which of the following best describes how those reporting ethics issues are identified? (Check one.) (n=687)

Complaints can be made anonymously or on the record	84.6%
Complainant must go on the record	12.4%
Complaints are always anonymous	3.1%

11. How are ethics issues investigated? (Check all that apply.) (n=713)

By internal staff	90.2%
By an external entity	50.6%

12. Does your local government track/measure ethics violations?

n	Yes	No
753	19.1%	80.9%

13. How do you track them? (Check all that apply.) (n=143)

Count the number of violations	65.0%
Categorize by type	47.6%
Other	16.8%

14. Does your local government recognize ethical behavior with any of the following? (Check all that apply.) (n=706)

Not applicable	76.1%
Personal message	18.6%
Award or certificate	7.4%
Formal announcement	5.5%
Other	3.8%
Pay raise	2.7%

15. Does your local government have its own established code of ethics/conduct?

n	Yes	No
744	62.5%	37.5%

16. Did your staff develop its content?

n	Yes	No
454	70.5%	29.5%

17. If not, how was the code developed? (n=121)

Other	47.1%
Organization's attorney	43.8%
Consultant	9.1%

18. Please note whether your local government specifically addresses any of the following in your code of conduct or a separate policy.

	n	Contained within our code of conduct	Established separately	Not applicable
Acceptance of gifts or favors	663	56.1%	43.0%	4.7%
Conflicts of interest	660	60.3%	39.8%	4.8%
Use of public resources	660	54.8%	44.5%	5.6%
Appropriate conduct in the workplace	662	44.1%	55.1%	5.9%
Outside employment	663	34.2%	59.0%	8.1%
Internet usage policy	658	24.8%	66.9%	9.0%
Nepotism	655	39.2%	53.9%	9.3%
Political activity	650	48.5%	44.8%	10.6%
Decision-making in the public interest	666	41.9%	33.3%	24.8%
Social media policy	648	20.5%	64.5%	30.2%
Values statement	618	35.4%	34.0%	31.7%

19. Are your employees required to sign the internal code of conduct? (n=431)

Yes, upon hire	61.9%
No signature required	30.6%
Yes, annually	7.4%

20. Please note whether your local government uses or requires any of the following:

	n	We use as a reference	We require employees to sign	Not applicable
ICMA Code of Ethics	669	56.1%	2.2%	42.9%
ASPA Code of Ethics	543	6.4%	0.4%	93.4%

21. To whom is ethics training provided? (Check all that apply.) (n=684)

Elected officials	50.9%
Managers	47.1%
All staff	44.0%
Board and commission members	31.3%
None	21.6%

22. Is their participation mandatory or voluntary?

	n	Mandatory	Voluntary
Elected officials	345	64.6%	35.4%
Managers	319	78.1%	21.9%
All staff	295	88.8%	11.2%
Board and commission members	208	66.3%	33.7%

23. (1) How many hours are required?

	n	Median Hours
Elected officials	147	2.0
Managers	157	2.0
All staff	154	2.0
Board and commission members	84	2.0

23. (2) On what basis?

	n	Upon Hire	Annually
Elected officials	173	52.6%	58.4%
Managers	190	58.9%	55.8%
All staff	210	69.5%	47.6%
Board and commission members	105	52.4%	63.8%

24. How is ethical training delivered? (Check all that apply.) (n=492)

"In house"	66.3%
External, in-person providers	48.0%
Online delivery	36.6%
Other	7.3%

25. Please indicate whether the training provided covers the following topics.

	n	Yes	No	Note sure
Conflicts of interest	469	94.0%	3.2%	2.8%
Acceptance of gifts or favors	467	91.9%	5.1%	3.0%
Use of public resources	469	90.0%	5.8%	4.3%
Political activity	462	85.7%	10.0%	4.3%
Appropriate conduct in the workplace	455	78.9%	16.3%	4.8%
Nepotism	449	71.3%	22.7%	6.0%
Internet usage policy	444	62.6%	30.9%	6.5%
Social media policy	448	59.8%	32.6%	7.6%
Outside employment	447	60.4%	30.9%	8.7%
Values statement	452	58.6%	29.2%	12.2%
Decision-making in the public interest	425	32.7%	9.4%	57.9%

26. Is your local government more focused on prevention or detection of ethics issues? (n=621)

Prevention	45.4%
Both equally	41.2%
Detection	13.4%

27. Do you survey employees about ethics, ethics compliance, and organizational culture?

n	Yes	No
632	15.5%	84.5%

28. When do you collect this information? (Check all that apply.) (n=96)

Annually	47.9%
In conjunction with training events	33.3%
Other	25.0%
Upon exit from the organization	22.9%
Upon entry to the organization	16.7%

29. Does your local government incorporate ethics in the employee recruitment and selection process?

n	Yes	No
634	48.3%	51.7%

30. How are ethics incorporated? (Check all that apply.) (n=305)

Situational questions are included in oral interviews	74.4%
All applicants are provided with a copy of the organization code of conduct/ethics	36.7%
Organization's commitment to ethics is in the job/position announcement	34.8%
Situational questions are included in the written exams	24.9%
Other	6.6%

Sec. 2-311. - Code of ethics.

- (a) *Preamble.* Public office and employment are public trusts. The vitality and stability of Clawson city depends upon maintaining public confidence in the integrity of its elected and appointed officers and employees. Whenever conduct undermining that integrity occurs, either actual or perceived, public confidence is jeopardized.

In furtherance of maintaining public confidence in the integrity of its elected and appointed officers and employees, the government of the City of Clawson has a duty to pronounce standards of ethical conduct which: Ensure public duties are forthrightly and ethically performed; and inform city officials and employees of the standards which the citizenry expects them to observe.

The purpose of this section is to publish standards of ethical conduct that are clearly established and uniformly applied. These standards will provide the public and city officials and employees with guidance and information about ethical expectations.

- (b) *Title.* This section shall be known and may be cited as the "City of Clawson code of ethics."
- (c) *Policy.* It is the public policy of this city that all elected and appointed officials and employees shall construe and implement ethical standards and guidelines with sincerity, integrity and commitment so as to advance the spirit of this ordinance [from which this section derived] in accordance with the following guiding principles:
- (1) *Public interest.* City officials and employees are delegated power from the public and are obliged to exercise that power as trustees of the public. The power and resources of government service therefore shall be used only to advance the public interest.
 - (2) *Objective judgment.* Loyalty to the public interest requires that all matters shall be decided with independent, objective judgment, free from avoidable conflicts of interest, improper influences, and competing loyalties.
 - (3) *Accountability.* Government affairs shall be conducted in an open, efficient, fair and honorable manner, which enables citizens to make informed judgments and to hold officials accountable.
 - (4) *Democratic leadership.* All city officials shall honor and respect the spirit and principles of representative democracy and will scrupulously observe the spirit as well as the letter of the law.
 - (5) *Respectfulness.* All city officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining nonpartisanship in all official acts, and by avoiding conduct which may tend to undermine respect for city officials and employees and for the city as an institution.
- (d) *Definitions.* As used in this section:
- (1) *City official or employee* is a person elected, appointed or otherwise serving in any capacity involving the exercise of a public power, trust or duty.
 - (2) *Compensation* is any money, property, thing of value or benefit received by any person in return for services rendered.
 - (3) *Conflict of interest* is either a personal interest or a duty or loyalty to a third party that competes with or is adverse to a city official's or employee's duty to the public interest in the exercise of official duties or official actions.
 - (4) *Gift* is any thing of value, money, loan of money, goods, or services given without due consideration. "Gift" does not include:
 - a. Information-gathering trips paid for by a person or entity seeking approval of a proposal from a decision-making body of the city, provided that the decision-making body, prior to the trip, makes all of the following determinations:
 1. The information will be useful and material;

2. The trip will improve and not unduly influence the decisional process; and
 3. The decision-making body designates the official(s) and/or employee(s) who will participate.
- b. Small perishable or consumable gifts of a nominal value, and any reportable campaign contributions pursuant to state law.
- (5) *Immediate family* is a spouse, child, parent, sister or brother wherever residing, or any relative sharing the same household.
 - (6) *Official duties* or *official actions* are decisions, recommendations, approvals, disapprovals or other actions which involve the use of discretionary authority.
- (e) *Prohibited conduct.*
 - (1) *Gifts.* A city official, elected member, member of any board or employee shall not, directly or indirectly, solicit or accept a gift that could unduly influence the manner in which they enact their official duties.
 - a. *Preferential treatment.* A city official, elected member, member of any board or employee shall not use his/her official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself/herself or others.
 - b. *Use of information.* A city official, elected member, member of any board or employee who acquires information in the course of his or her official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person nor use the information to further the private interest of the city official or employee or any third party. Information which is deemed exempt from disclosure under the Michigan Freedom of Information Act, Act 442, Public Acts of Michigan, 1976, or which is the subject of a duly called closed meeting held in accordance with the Michigan Open Meetings Act, Act 267, Public Acts of Michigan, 1976, is confidential. A city official or employee shall not suppress or refuse to provide city reports or other information which is publicly available.
 - (2) *Conflict of interest.*
 - a. No city official, elected member, member of the board or employee shall engage in employment, render services, or engage in any business, transaction or activity which is in direct conflict of interest with his/her official duties.
 - b. No city official, elected member, member of the board or employee may use any confidential information obtained in the exercise of his/her official duties for personal gain or for the gain of others.
 1. No city official elected member, member of the board or employee shall intentionally take or refrain from taking any official action, or induce or attempt to induce any other city official, elected member, member of the board or employee to take or refrain from taking any official action, on any matter before the city which would result in a financial benefit for any of the following:
 - (i) The city official or employee.
 - (ii) An immediate family member.
 - (iii) An outside employer.
 - (iv) Any business in which the city official or employee, or any immediate family member of the city official or employee, has a financial interest.
 - (v) Any business with which the city official, elected member, member of the board or employee or any immediate family member is negotiating or seeking prospective employment or other business or professional relationship.

- (vi) Except as otherwise provided by law, no city elected official shall serve with compensation as an officer or as a member of a managing or executive board with the right to vote in any corporation, business, or entity which engages or seeks to engage in any business, transaction or activity with the city. The foregoing shall not apply to entities which are advisory only, or which have no legal standing, or which are substantially affiliated with or controlled by the city or 501C(3) not-for-profit organizations; or to membership on a managing or executive board on an ex officio basis without vote.

2. In contracts.

- (i) Except as otherwise permitted herein, no city official, elected member, member of the board or employee or any immediate family member of a city official or employee shall be a party, directly or indirectly, to any contract with the city except for collective bargaining agreements. The foregoing shall not apply if the contract is awarded after public notice and competitive bidding, provided that the city official or employee shall not have participated in establishing contract specifications or awarding the contract, shall not manage contract performance after the contract is awarded, and shall disclose the city official's or employee's interest in the contract.
 - (ii) A city official shall not engage in a business transaction with the city except as permitted by Act 317, Public Acts of Michigan, 1968, as amended. Compliance with the requirements of said Act shall constitute compliance with this subsection.
- (3) *Use of city property.* A city official, elected member, member of the board or employee shall not, directly or indirectly, use any city property for personal gain or for the private benefit of a third party.
 - (4) *Political activity.* No city official, elected member, member of the board or employee shall use any city time or property for his/her own political benefit or for the political benefit of any other person seeking elective office; provided, that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid. No political activity shall interfere with the performance of the usual duties of any city official or employee.
 - (5) *Nepotism.* No city official or employee shall cause the employment or any favorable employment action of an immediate family member. No employee shall participate in any employment decision about that family member. This section shall not prevent a city official or employee from preparing or approving a budget which includes compensation for an immediate family member, so long as that immediate family member receives the same treatment as others in his/her classification.
 - (6) *Retaliation.* No person making a complaint or requesting an advisory opinion, or participating in any proceeding of the board of ethics, shall be retaliated against in any manner for such action or participation.
- (f) *Disclosure.*
- (1) *Annual disclosure statement.* The following elected and appointed city officials and employees shall file an annual disclosure statement.
 - a. The mayor, members of the city council, the city manager, city attorney, city clerk and city treasurer;
 - b. The directors and deputy directors of all administrative departments;
 - c. The members of the planning commission, and the zoning board of appeals; and
 - d. Other city officials and employees who, in the ordinary course of their duties, regularly exercise significant discretion over the solicitation, negotiation, approval, awarding, amendment, performance, or renewal of city contracts.

(g) *Annual disclosure statement—Content.*

- (1) The annual disclosure statement shall disclose the following financial interest of the city official, elected member, member of the board or employee or of the latter's' immediate family in any company, business or entity that has contracted with the city or which has sought licensure or approvals from the city in the two calendar years prior to the filing of the statement:
 - a. Any interest as a partner, member, employee or contractor in or for a co-partnership or other unincorporated association;
 - b. Any interest as a beneficiary or trustee in a trust;
 - c. Any interest as a director, officer, employee or contractor in or for a corporation;
 - d. Legal or beneficial ownership of one percent or more of the total outstanding stock of a private corporation not listed on a stock exchange;
 - e. Legal or beneficial ownership of stock with a market value of \$25,000.00 or more in a company which is doing business with the city and which is not listed on the New York or American Stock Exchanges.
 - f. The annual disclosure statement shall include a summary listing each business transaction with the city involving a financial interest described in this section of the city official or employee or the city official's or employee's immediate family during the prior two calendar years.
 - g. If there is no reportable financial interest or transaction applicable to the city official or employee or the city official's or employee's immediate family, the annual disclosure statement shall contain a certification as to that fact.
- (2) *Annual disclosure statement—When and where filed.* One original executed annual disclosure statement and one copy shall be filed with the board of ethics on or before April 15 each year.
- (3) *Transactional disclosure.* A city official or employee shall not participate, in the course of official duties, in any transaction which subsequently would be required to be disclosed in an annual disclosure statement or which would constitute a conflict of interest as outlined supra without disclosing the interest in the transaction prior to participating in the transaction. If the official is a member of a decision-making or advising body, the disclosure must be made to the chair and other members and made part of the official record of the body. A council member who absents himself/herself from a vote shall disclose the reason to the entire body. In the case of an employee, the disclosure must be made to his/her immediate supervisor.
- (4) *Disclosure of gifts.* Any gift received in a city official's or employee's official capacity which could unduly influence the manner in which they enact their official duties should be reported immediately to the board of ethics. Such gifts should be returned to the donor, or donated to a charity, with the explanation to the donor that city policy will not permit the acceptance of the gift.
- (5) *Disclosure forms.* All disclosures shall be made on forms provided for that purpose by the board of ethics and filed with the board of ethics. All disclosure statements shall become public documents.
- (6) *Campaign finance statements.* Any candidate or committee, as defined in the Michigan Campaign Finance Act, Act 388, Public Acts of Michigan, 1976, as amended, who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of electors of the city in primary, regular and special city elections, or whose districts are comprised wholly or substantially of the city, may file with the city clerk a duplicate copy of any statement or report required to be filed under Act 388 promptly following the filing of such report with the appropriate filing official designated pursuant to Act 388.

(h) *Board of ethics.*

- (1) *Creation.* The City of Clawson hereby creates an independent body called the "board of ethics."
- a. *Objective.* The objective of the board of ethics is to issue written opinions regarding ethical, not legal, questions and to engage in activities which will promote ethical behavior.
- b. *Board membership; terms; quorum; meetings; rules:*
1. The board of ethics shall consist of three members nominated by the mayor and members of council with each member seated on the board by a majority vote. Current elected officials or employees shall not be eligible for appointment to the board. Members of the board may be removed by a simple majority vote of the council.
 2. Members shall be appointed for terms of three years, except that of those first appointed, one shall serve for three years, one shall serve for two years, and one shall serve for one year. In the event of a vacancy, the mayor and members of council shall nominate candidates to fill the vacancy for the remainder of the term. Initial nominations shall be made within 30 days of enactment of this section, and nominations to fill vacancies and subsequent terms shall be made within 60 days of occurrence of the vacancy or commencement of the term. The council shall vote on confirmation within 30 days of receipt of nominations. If nominations are not made within the periods specified, the mayor shall appoint the member(s). If the city council shall not vote on confirmation within the period specified, the nominations shall be deemed confirmed and the member(s) shall be appointed.
 3. Two members of the board of ethics shall constitute a quorum and the affirmative vote of two members shall be necessary for any action. Members of the board shall serve with compensation equivalent to other city boards and commissions.
 4. The board of ethics shall elect its own officers.
 5. The board of ethics shall meet at least once annually, and more frequently as it shall determine is necessary. meetings of the board shall be subject to the Michigan Open Meetings Act.
 6. The board of ethics shall adopt interpretative rules and procedures relating to the requirements and application of this section.
- c. *Powers and duties.* The board of ethics shall have the power to:
1. Receive requests for advisory opinions from city officials or employees.
 2. Receive complaints concerning alleged unethical conduct by a city official or employee from any person or entity.
 3. Receive and retain on file copies of disclosure statements, advisory opinions, and other materials required to be filed under this section.
 4. Upon receipt of a request for advisory opinion or a complaint, preliminarily review the matter to determine if the board has jurisdiction over the matter and/or persons identified in the request or complaint.
 5. If a complaint concerns an employee covered by a collective bargaining agreement, the board's sole power shall be to forward the complaint forthwith to the employee's department head to be adjudicated pursuant to the procedures of the collective bargaining agreement.
 6. Subject to the limitations set forth above, inquire into the circumstances surrounding alleged unethical conduct. The board of ethics, on its own motion and upon a majority vote, may initiate an inquiry. The board is hereby authorized to exercise all of the powers granted by the city Charter, except that the board shall not have the power to subpoena witnesses or compel the production of books, papers, and other evidence.

The board may seek the assistance and opinion of the prosecuting attorney or of the city attorney in the investigation of any matter.

7. Issue advisory opinions in response to complaints and requests and on its own motion. Advisory opinions of the board of ethics shall be maintained in the city clerk's office and shall be available to the public upon request. The board shall provide copies of its opinions to the mayor and the city council. The board shall publicize summaries of its advisory opinions to city officials and employees.
 8. Adopt and maintain disclosure forms, which may be revised by the board of ethics from time to time.
 9. Propose and monitor an ongoing program of education of city officials and employees regarding ethical issues and concerns.
 10. Report to the mayor and the city council from time to time, but not less often than every other calendar year, regarding such matters pertaining to this section as the board deems appropriate, which may include, but not be limited to, the degree to which the policy of this section is being achieved; the numbers and nature of requests for advisory opinions and complaints and the ultimate disposition thereof; the implementation and effectiveness of this section; and any changes in this section recommended to more fully achieve the purposes and policy of this section.
- d. *Board actions.* Action to be taken in any individual case may include the following:
1. Issuing a written advisory opinion.
 2. Deeming no action to be required.
 3. Issuing a written reprimand to an elected member, member of the boards or city employee if all members of the board are in agreement.
 4. Issuing a formal censure to an elected member, member of the boards or city employee if all members of the board are in agreement.
 5. Referring the matter to an authority within the city authorized to act.
 6. Referring the matter to the prosecuting attorney for prosecution under this ordinance.
- e. *Confidentiality and due process.* The board of ethics shall keep all complaints strictly confidential. The board shall keep requests for advisory opinions strictly confidential. All persons alleged to have violated this section shall be afforded due process of law, including notice, the opportunity to be heard, and the right to representation of their choice.
- f. *Advisory opinions:*
1. The board of ethics may issue written advisory opinions interpreting this section and its provisions and relevant provisions of state law applicable to city officials and employees. Advisory opinions shall not disclose the identities of the person or entity making the request for an advisory opinion or the identity of the persons or positions who are the subject of a complaint or inquiry. Advisory opinions shall be issued within 60 days of a request. If additional time is needed, the time may be extended by majority vote of the board.
 2. Advisory opinions may include guidance to any city official or employee on questions including, but not limited to:
 - (i) Whether an identifiable conflict of interest exists between his/her personal interests or obligations and his/her official duties.
 - (ii) Whether his/her participation in his/her official capacity would involve discretionary judgment with significant effect on the disposition of the matter in question.

- (iii) Whether the result of the potential conflict of interest is substantial or constitutes a real threat to the independence of his/her judgment.
 - (iv) Whether he/she possesses certain knowledge or skill which the city will require to achieve a sound decision.
 - (v) What effect his/her participation under the circumstances would have on the confidence of the people in the impartiality of their officials and employees.
 - (vi) Whether a disclosure of his/her personal interests would be advisable and, if so, how such disclosure should be made.
 - (vii) Whether the public interest would be best served by his/her withdrawal or abstention.
 - (viii) Whether undue influence is being exerted on him/her.
3. When the board of ethics issues an advisory opinion regarding ethical questions pursuant to this section, the board shall promptly send a copy of its opinion to:
- (i) The individual who requested the opinion;
 - (ii) The city official or employee affected;
 - (iii) An individual who has been identified in a complaint and his/her supervisor, if any;
 - (iv) The mayor and members of council.
- g. *Reports from city officials.* In the event the board forwards a complaint to a department head in accordance with the provisions of this ordinance, following the adjudication of such complaint, the department head shall file a report with the board describing the handling and disposition of the complaint.
- (i) *Penalties.* This section is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and employees and is not intended to be a punitive measure. It is anticipated that the issuance by the board of ethics of advisory opinions will conclude all matters originating as requests for advice and substantially all matters originating as complaints.
- The board of ethics is not an adjudicative body and no finding of the board shall be deemed conclusive nor, in and of itself, subject any city official elected member, member of the boards or employees to penalties. Any person subject to the work and conclusions of the board shall have the right to appeal a formal censure and/or a written reprimand to the city's prosecuting attorney. In the event of legal proceedings alleging a violation of this section, then in accordance with the provisions of the city Charter, a violation of this section shall constitute a municipal civil infraction, and shall subject a person found responsible by a court of violating this section to a maximum civil fine of not more than \$500.00.
- (j) *Effective date—Review.* The ordinance codified in this section shall be effective immediately. This section shall be reviewed every three years to evaluate its operation and to propose any changes needed.
- (k) *Primacy of collective bargaining agreements.* Nothing in this section shall be read or implied to supersede any provision of a collective bargaining agreement in effect on the effective date of the ordinance codified in this section.

([Ord. No. 733](#), 3-17-2020)

MACOMB TOWNSHIP ORDINANCE NO. 278

MACOMB TOWNSHIP STANDARDS OF ETHICAL CONDUCT

AN ORDINANCE TO ESTABLISH A STANDARD OF ETHICS FOR ALL PUBLIC SERVANTS OF MACOMB TOWNSHIP.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE TOWNSHIP OF MACOMB:

Sec. 1 - Title.

This Ordinance shall be known and shall be cited as the "Macomb Township Ethics Ordinance."

Sec. 2 - Purpose.

This Ordinance establishes standards of ethical conduct for all Township Public Officials and Employees (as defined below). It proscribes actions incompatible with the public interest. The intent of this ordinance is to be preventative.

Sec. 3 - Preamble.

Macomb Township residents and those conducting business in or with Macomb Township are entitled to fair, ethical and accountable government. Public Officials and Employees hold positions of public trust and their actions must remain above reproach, in furtherance of maintaining public confidence in the integrity of Macomb Township.

Sec. 4 - Responsibilities of Public Office.

Public Officials are bound to uphold the Constitution of the United States and the Constitution of the State and to carry out impartially and comply with the laws of the United States, State of Michigan, and the Township. Public Officials and Employees must not exceed their authority or breach the law or ask others to do so. Public Officials and Employees are bound to observe in their official acts the highest standards of ethical conduct and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their official conduct should be above reproach.

Michigan's State Constitution's oath of office requires all Public Officials to swear under oath to faithfully discharge the duties of their office. This is a "fiduciary duty" owed to all members of the Public. Public Officials must observe their fiduciary duties to the Township and the public, including the duty of loyalty and the duty of care. Effective township governance requires adherence to the ethical requirements provided by law and the faithful exercise of each Public Official's duty. All Public Officials and Employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non-partisanship in all official acts,

and by avoiding official conduct which may tend to undermine respect for Public Officials and Employees and for the Township as an institution.

Sec. 5 - Definitions.

As used in this Ordinance, the following terms shall have the meanings ascribed to them:

A. Appointee shall mean a person appointed to a compensated or uncompensated position in Township government that is not subject to a collective bargaining agreement, who is not elected to or holding office or holding an office that is subject to an election and whose appointment is subject to the approval of the Board of Trustees.

B. Board of Trustees shall mean the Macomb Township Board of Trustees comprised of the Supervisor, the Clerk, the Treasurer and four (4) Trustees.

C. Business Entity shall mean any agents, agency, contractors, vendors, or entities operated for economic gain, whether professional, industrial, or commercial, and whether established to produce or deal with a product or service, including but not limited to entities operated in the form of a corporation, limited liability company, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity or other entities which is organized for profit.

D. Confidential Information shall mean information obtained by a Public Official or Employee by reason of his or her position that is not available to members of the public pursuant to the Michigan Freedom of Information Act or other applicable laws, regulations, or procedures.

E. Conflict of Interest shall mean:

- a. The Public Official or Employee has any Pecuniary Interest in the outcome of a matter currently before the Township, or is associated as owner, member, partner, Official, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said Public Official's or Employee's governmental duties, or;
- b. The Public Official or Employee has reason to believe or expect that he or she will derive financial benefit or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;
- c. The Public Official or Employee has any other prohibited interest as defined by state or federal law relating to conflicts of interest.

Employee shall mean an individual who is hired by the Township to provide Services on a continuing basis, whether full-time, part-time, temporary,

intermittent, hourly, or via an employment contract.

F. Gift shall mean any gratuity, discount, entertainment, hospitality, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements.

"Gift" does not include:

1. Information-gathering trips paid for by a person or entity seeking approval of a proposal from a decision-making body of the Township, provided that the decision-making body, prior to the trip, makes all of the following determinations:

- a. The information will be useful and material;
- b. The trip will improve and not unduly influence the decisional process;
And,
- c. The Board of Trustees designates the individual to participate.

2. Small perishable or consumable gifts of a nominal value, and any reportable campaign contributions pursuant to State Law.

G. Immediate Family Member shall mean Public Official's or Employee' spouse, parent, parent-in-law, step-parent, sibling, child, step-child or grandparent.

H. Pecuniary Interest means the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction.

I. Public Official shall mean the Board of Trustees and Appointees.

J. Publicly Disclose shall mean to disclose in such a manner as to ensure all involved in considering the decision, action or contract are aware of the conflict of interest or other situation requiring disclosure and the nature of same.

K. Unethical Conduct shall mean a violation of any prohibited conduct as described in this Ordinance.

Sec. 6 - Prohibited conduct

No Public Official or Employee shall directly or indirectly, solicit or accept any gift of any person or organization, other than the Township, which tends to influence the manner in which the official or Employee or any other official or Employee performs his or her official duties.

Except as permitted by this ordinance, a Public Official or Employee shall not intentionally solicit or accept any Gift from any Business Entity.

This prohibition shall **not apply to:**

- 1. Opportunities, benefits, and services that are available on the same conditions as for the general public.

2. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials.
3. A Gift received from an Immediate Family Member of the Public Official or Employee, provided that the Immediate Family Member is not acting as a third party's intermediary or an agent in an attempt to circumvent this ordinance.
4. Acceptance of unsolicited advertising or promotional materials and other items of nominal intrinsic value.
5. Food or refreshments not exceeding \$75.00 in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this ordinance, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
6. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the duties of the Public Official or Employee, if the benefits have not been offered or enhanced because of the Public Official's or Employee's official position or employment and are customarily provided to others in similar circumstances.
7. Admission or registration fees, travel expenses, entertainment, lodging, meals or refreshments that are furnished to the Public Official or Employee: (i) by the sponsor(s) of an event, appearance or ceremony which is related to official Township business in connection with such an event, appearance or ceremony and to which one or more of the public are invited; or (ii) in connection with teaching, a speaking engagement or the provision of assistance to or service as a director, Official, board member, or committee member of an organization or another governmental entity as long as the Township does not compensate the Public Official or Employee for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity; and are customarily provided to others in similar circumstances. If the event, ceremony, meeting, or conference is outside the state of Michigan, the Public Official or Employee shall obtain approval prior to attending from the Board of Trustees.
8. Anything for which the Public Official or Employee pays fair market value.
9. Any contribution that is lawfully made or event that is lawfully held under the Campaign Finance Laws of the State of Michigan.
10. Anything provided by an individual on the basis of a personal friendship unless the Public Official or Employee has reason to believe that, under the circumstances, the Gift was provided because of the Public Official's or Employee's official position or employment. In determining whether a Gift

is provided on the basis of personal friendship, the Public Official or Employee shall consider the circumstances, under which the Gift was offered, such as: (i) the history of the relationship between the individual giving the Gift and the Public Official or Employee, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the Public Official or Employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the Public Official or Employee the individual who gave the gift also at the same time gave the same or similar gifts to other Public Officials and Employees.

11. If a friend of a Public Official or Employee offers to pay or agrees to pay for the Public Official's or Employee's travel outside the state, the Public Official or Employee shall obtain approval prior to that travel from the Board of Trustees.
12. Admission to a charitable or non-profit event or fundraiser when the Public Official or Employee is attending as a representative of the Township or for which other Public officials of other local governments have similarly been provided complimentary admission due to their status as governmental officials.
13. Admission to events honoring another public official or governmental official when the Public Official or Employee is attending as a representative of the Township or for which other public servants or officials of other local governments have similarly been provided complimentary admission due to their status as governmental officials.
14. Each of the exceptions listed in this Section is mutually exclusive and independent of every other.
15. The Public Official or Employee does not violate this Section if the Public Official or Employee promptly takes reasonable action to return the Gift. No Public Official or Employee shall divulge to any unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public. No Public Official or Employee shall represent his or her personal opinion as that of the Township.

Every Public Official or Employee shall use resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.

- A. No Public Official or Employee shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.
- B. No Public Official or Employee shall engage in or accept employment or render services for any Business Entity when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when

that employment may tend to impair his or her judgment or action in the performance of his or her official duties.

- C. No Public Official or Employee shall participate, as an agent or representative of the Township, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any Business Entity in which he or she has, directly or indirectly, a financial or personal interest.
- D. No Public Official or Employee shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.
- E. No Public Official or Employee shall acquire any financial benefit in or accept any employment concerning any project which has been granted approval by the Township or any commission, board, department or Employee thereof within one year of the Public Official's or Employee's participation in any manner in considering or recommending the approval or disapproval of said project.
- F. No Public Official or Employee shall use his/her official position to unreasonably secure, request or grant, any privileges, exemptions advantages, contracts, or preferential treatment for himself / herself or others.
- G. A Public Official or Employee who acquires information in the course of his or her official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person, nor use the information to further the private interest of the Public Official or Employee or any third party. Information which is deemed exempt from disclosure under the Michigan Freedom of Information Act, Act 442, Public Acts of Michigan, 1976, or which is the subject of a duly called closed meeting held in accordance with the Michigan Open Meetings Act, Act 267, Public Acts of Michigan, 1976 is confidential.
- H. A Public Official or Employee shall not, solicit others to work on political campaign activities, or solicit campaign contributions from others, using Township property during working hours, on their behalf or on the behalf of another.

Sec. 7- Public Disclosure Requirements.

Any Public Official or Employee, with a Conflict of Interest (as defined herein) shall Publicly Disclose the Conflict of Interest.

Sec. 8 - Violation, Enforcement and Advisory Opinions.

A. Board of Ethics:

1. The Board of Trustees shall appoint a Board of Ethics, consisting of three members, as an advisory body for the purpose of interpreting this Ordinance and as otherwise defined herein ("Board of Ethics").
2. The initial three members of the Board of Ethics shall be appointed for one-, two-, and three-year terms of office respectively. Terms of office shall expire on December 31st of the respective years. Thereafter, all members shall be appointed to three-year terms, beginning January 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The Board of Trustees shall fill a vacancy by an appointment for the unexpired term only.
3. The Board of Ethics shall be made up of residents of the Township that the Board of Trustees determines to be the best qualified for this position.
 - a. The members of the Board of Ethics shall serve without compensation, and shall not otherwise be a Public Official or Employee.
 - b. The Board of Ethics shall select a presiding member from among the Board of Ethics members.
 - c. The Board of Trustees shall establish such procedures it deems necessary or appropriate for the Board of Ethics to perform its functions as set forth in this Ordinance.
 - d. After appointment to the Board of Ethics, each member of the Board of Ethics shall be considered an Appointee for purposes of this Ordinance.

B. Board of Ethics - Function:

When there is a question or a complaint as to the applicability of any provision of this Ordinance to a particular situation, that question or complaint shall be directed to the Board of Ethics. It shall then be the function of the Board of Ethics to deliberate and/or issue an advisory opinion, as applicable. The Board of Ethics will conduct itself pursuant to Rules of Procedure as established by the Board of Trustees.

C. Board of Ethics - Powers and Duties

The Board shall:

- A. Receive complaints concerning alleged unethical conduct by a Public

Official or Employee from any person or entity, inquire into the circumstances surrounding the alleged unethical conduct, and make recommendations concerning individual cases to the Macomb Township Board of Trustees;

- B. Initiate investigations of practices that could affect ethical conduct of a Public Official or Employee.
- C. Hold public hearings.
- D. Issue and publish advisory opinions upon request from a Public Official, Employee or the Macomb Township Board of Trustees relating to matters affecting ethical conduct of a Public Officer or Employee.

Sec. 9 - Penalties

After the Board of Ethics' advisory opinions and/or findings have been disclosed:

- A. The Board of Trustees shall be responsible for imposing any sanctions for a violation of this Ordinance on the appropriate Public Official or Employee;
- B. If it becomes necessary to seek the removal of a Public Official or Employee, after the Board of Ethics' advisory opinion and/or findings, the Township shall follow the requirements for removal in accordance with the laws of the State of Michigan; and;
- C. The Board of Trustees shall be responsible for imposing any discipline for a violation of this Ordinance on any Public Official or Employee.
- D. A Public Official or Employee who reports or is about to report a violation of this Ordinance shall not be subject to any of the following sanctions because they reported or were about to report such violation.
 - (1) Dismissal from employment or office.
 - (2) Withholding of salary increases that are ordinarily forthcoming to the Employee.
 - (3) Withholding of promotions that are ordinarily forthcoming to the Employee.
 - (4) Demotion in employment status.
 - (5) Transfer of employment location.

Sec. 10 - Primacy of Collective Bargaining Agreements.

Nothing in this Ordinance shall be read or implied to supersede any provision of a collective bargaining agreement to which Macomb Township is a party.

Sec. 11 - Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the

extent necessary to give this Ordinance full force and effect. This ordinance shall supersede any conflicting Township policies.

Sec. 12 - Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Sec. 13 - Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced.

Sec. 14 - Effective date.

The provisions of this Ordinance are hereby ordered to take effect upon publication in accordance with and in the manner prescribed by the Township of Macomb, Macomb County, Michigan. Any violations or complaints prior to the effective date of this ordinance shall not be enforceable.

Sec. 15 - Adoption.

MOTION by Nevers seconded by Goodhue that this ordinance is declared to have been enacted by the Board of Trustees of Macomb Township at a meeting called and held on the 23rd day of October, 2019, and ordered to be given publication in the manner prescribed by law.

Roll Call:

Ayes: Nevers, Goodhue, Bussineau, Krzeminski, Smith, Pozzi, Dunn

Nays: None

Absent: None

ORDINANCE declared adopted this 23rd day of October, 2019.



Kristi Pozzi, Clerk
Macomb Township

Certification

STATE OF MICHIGAN)
) SS.
COUNTY OF MACOMB)

I, the undersigned, the qualified and acting Clerk of Macomb Township, Macomb County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the Board of Trustees of Macomb Township at a meeting held on the 23rd day of October, 2019, the original of which is on file in my office. I furthermore attest that a true and accurate copy of this ordinance was published in a paper of general circulation on the 31st day of October, 2019.

MACOMB TOWNSHIP

By: Kristi Pozzi, Township Clerk

ARTICLE V. - CODE OF ETHICS

DIVISION 1. - GENERALLY

Sec. 2-225. - Purpose.

The intent of this article is to set forth standards of conduct for public officials and, to the extent not otherwise governed by applicable collective bargaining agreements, personnel/policy manuals or work rules, employees of the Charter Township of Canton. The article also provides references to certain state statutes that regulate the conduct of officials and employees of local government. The citizens of the Charter Township of Canton are entitled to fair, ethical, and accountable local government that affords them full confidence in its integrity. Democratic government requires officials to comply with both the letter and spirit of law and policies affecting the operations of government, that public officials be independent, impartial, and fair in judgment and action. An effectively functioning public office is a public trust and may only be used for the common good and not personal gain. Public deliberations and processes are to be conducted openly, unless such deliberations are lawfully closed to the public, with respect and civility. A board of ethics is established to hear complaints against representatives of the Charter Township of Canton and, when there is a reasonable basis to believe that the respondent has intentionally violated this article, to refer those complaints for prosecution and/or a disciplinary hearing by the appointing authority. The article provides for penalties for violations of this article.

(Ord. of 8-14-2018(1))

Sec. 2-226. - Definitions.

As used in this article, the following words and phrases shall have the following meaning:

Board of ethics means the township board of ethics established in division 3 of this article and may also be referred to as the ethics board.

Contractor means an individual or firm, other than an employee, who derives revenue or services from the Charter Township of Canton by providing goods or services to the township and controls public resources.

Employee means a person employed by the township on a full or part-time basis.

Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements related to or attributable to government employment or the official position of an official, employee, and contractors.

Government contract means a contract in which the township acquires goods or services, or both, from another person or entity, but the term does not include a contract pursuant to which a person serves as an employee or appointed official of the township.

Governmental decision means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by the members of a legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, which is empowered to exercise authority or perform an official action, is required and by which a public entity formulates or effectuates public policy.

Immediate family means a person and a person's spouse and the person's children and step-children, by blood or adoption, and that person's parents, parents-in-law and step-parents and any person claimed by that person or person's spouse as a dependent under the Internal Revenue Code or a person who resides in the same household.

Official means a person who holds office, by election or appointment within the township regardless of whether they are compensated for service in an official capacity, including individuals appointed to a township board or commission.

Official action means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

Prohibited source means any person or entity who:

- (1) Is seeking official action (i) by an employee or (ii) by an official or another employee directing that employee;
- (2) Does business or seeks to do business (i) with the official or (ii) with an employee, or another employee directing that employee;
- (3) Conducts activities regulated (i) by the official or (ii) by an employee, or another employee directing that employee; or
- (4) Has interests that may be substantially affected by the performance or nonperformance of the official duties of the official or employee.

Relative means any relationship established by blood, marriage, or legal action.

Township board means the seven member body consisting of the supervisor, clerk, treasurer, and four trustees known collectively as the board of trustees for the Charter Township of Canton.

(Ord. of 8-14-2018(1))

Sec. 2-227. - Implementation.

- (a) This code of ethics is intended to be self-enforcing and therefore becomes most effective when everyone is thoroughly familiar with and embraces its provisions. For this reason, ethical standards shall be included in the regular orientation for newly elected and appointed officials, employees, and contractors who control township resources or public funds. Township officials, appointees, employees, and contractors shall sign a statement affirming they have read and understood the code of ethics. In addition, the code of ethics shall be annually reviewed by the township board, which shall consider recommendations for updates of the code of ethics as necessary.

(Ord. of 8-14-2018(1))

DIVISION 2. - STANDARDS OF ETHICAL CONDUCT

Sec. 2-228. - Quality of life.

- (a) All information provided by officials, employees, and contractors of the township will be truthful and complete. These individuals shall not knowingly make false or misleading statements, or use false or misleading information as the basis for making a decision.
- (b) Township officials, employees, and contractors shall conduct themselves as role models for residents, business people and other stakeholders while involved in public deliberation. Township board members shall support the maintenance of a positive and constructive workplace environment for township employees, and for citizens and business dealing with the township.
- (c) Township decisions and actions shall be intended to improve the quality of life in the community and shall consider the unique needs of the less fortunate.
- (d) Because of the value of independent advice of boards, commissions and committees to the public decision-making process, members of the township board shall refrain from using their official

positions to unduly influence the deliberations, outcomes or recommendations of board, commission and committee proceedings.

- (e) When representing the township on a regional or multijurisdictional board or commission and confronted with an issue that pits the township's interests against the greater interests or the broader jurisdiction, the township board shall be consulted for direction and guidance. When such guidance cannot be sought, representatives of the township must consider the broader regional or statewide implications of that body's decision and issues.
- (f) The professional and personal conduct of township officials, employees, and contractors must avoid the appearance of impropriety. While recognizing First Amendment rights, all should refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other officials, employees, and contractors of the township.
- (g) Township board members shall represent the official policies or positions of the township board to the best of their ability when designated for this purpose. When presenting their individual opinions and positions, officials shall explicitly state they do not represent the township board or the township as a whole.

(Ord. of 8-14-2018(1))

Sec. 2-229. - Gift ban.

Except as permitted by this article, no official, employee, or contractor of the township shall intentionally solicit or accept any gift from any prohibited source or which is otherwise prohibited by law or ordinance.

(Ord. of 8-14-2018(1))

Sec. 2-230. - Exceptions.

Section 2-229 is not applicable to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions for all participants in an event or activity.
- (2) Promotional material with a nominal value not exceeding \$20.00.
- (3) Anything for which the official, employee, or contractor pays the fair market value.
- (4) Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan.
- (5) A gift from an immediate family member or relative, including domestic partner or significant other.
- (6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officials, employees, or contractors.

- (7) Food or refreshments not exceeding \$50.00 per person in value on a single calendar day in a given week, and limiting gifts from an individual prohibited source to one per financial quarter; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this section, *catered* means food or refreshments that are purchased ready to consume which are delivered by any means. An individual department may create guidelines and policy stricter than this provision.
- (8) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an official, employee, or contractor), if the benefits have not been offered or enhanced because of the official position or employment of the official, employee, or contractor, and are customarily provided to others in similar circumstances.
- (9) Intra-governmental and inter-governmental gifts. For the purpose of this article, intra-governmental gift means any gift given to an official, employee, or contractor from another official, employee, or contractor of the township, and inter-governmental gift means any gift given to an official, employee, or contractor by an official, employee, or contractor of another governmental entity.
- (10) Bequests, inheritances, and other transfers at death. Each of the exceptions listed in this section is mutually exclusive and independent of every other.

(Ord. of 8-14-2018(1))

Sec. 2-231. - Disposition of gifts.

An official, employee, or contractor does not violate this article if they promptly take reasonable action to return a gift from a prohibited source or donate said gift for any purpose untainted by motives of private gain.

(Ord. of 8-14-2018(1))

Sec. 2-232. - Confidential information.

A public official, employee, or contractor shall not divulge confidential information acquired in the course of employment.

(Ord. of 8-14-2018(1))

Sec. 2-233. - Personal opinion.

An official, employee, or contractor shall not represent his or her personal opinion as that of the township.

(Ord. of 8-14-2018(1))

Sec. 2-234. - Public resources.

An official, employee, or contractor shall use personnel resources, property, and funds under their care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal or political gain.

(Ord. of 8-14-2018(1))

Sec. 2-235. - Personal profit.

A public official, employee, or contractor shall not engage in a business transaction in which they may profit from their official position or authority or benefit financially from confidential information which they have obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours or when taking paid time off shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this township.

(Ord. of 8-14-2018(1))

Sec. 2-236. - Incompatibility and conflicts of interest.

Except as otherwise provided in the Michigan Constitution of 1963, statute, or section 2-238, an official or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the official or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties. The simultaneous holding of more than one public position under certain circumstances is contrary to the requirements of the Incompatible Public Offices Act, MCL 15.181 et seq. However, the simultaneous holding of certain public positions is permitted where specifically authorized by the Michigan Constitution of 1963 or state statute.

(Ord. of 8-14-2018(1))

Sec. 2-237. - Personal and financial interests.

Except as provided in section 2-238, an official, employee, or contractor shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to an entity in which the official, employee, or contractor has a financial interest, personal interest, or a *fiduciary duty*. For the purposes of this section *fiduciary duty* means the responsibility to act on behalf of a beneficiary as a director or executive board member of a corporation, for profit or otherwise. This section does not apply to employees engaged in the negotiation of collective bargaining agreements due to their membership in a union recognized by the township.

(Ord. of 8-14-2018(1))

Sec. 2-238. - State conflict of interest act, validity of contracts, and voting on, making, or participating in governmental decisions.

- (a) This article shall not in any manner vary or change the requirements of 1968 PA 317, being sections 15.321 to 15.330 of the Michigan Compiled Laws, which governs the solicitation by and participation in government contracts by officials, employees, and contractors of the township and preempts all local regulation of such conduct.
- (b) A contract in respect to which a public official, employee, or contractor acts in violation of this article shall not be considered to be void or voidable unless the contract is a violation of a statute which specifically provides for such remedy.
- (c) Subject to subsection (d), sections 2-236 and 2-237 shall not apply and an official shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

- (1) The requisite quorum necessary for official action on the governmental decision by the board or commission to which the official has been elected or appointed is not available because the participation of the official in the official action would otherwise violate sections 2-236 and 2-237.
 - (2) The official is not paid for working more than 25 hours per week for the township.
 - (3) The official promptly discloses any personal, contractual, financial, business, or employment interest they may have in the governmental decision and the disclosure is made part of the public record of the official action on the governmental decision.
- (d) If a governmental decision involves the awarding of a contract, sections 2-236 and 2-237 shall not apply and a public official shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:
- (1) All of the conditions of subsection (c) are fulfilled.
 - (2) The public official will directly benefit from the contract in an amount less than \$250.00 or less than five percent of the public cost of the contract, whichever is less.
 - (3) The public official files a sworn affidavit containing the information described in subdivision (2) with the board or commission making the governmental decision.
 - (4) The affidavit required by subsection (3) is made a part of the public record of the official action on the governmental decision.
- (e) Section 200.318 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards describes mandatory language that has been included in the purchasing/procedure/rules/bidding policy of the township. Additionally, Section 200.212 of the Super Circular requires the township disclose in writing any potential conflict of interest to a Federal awarding agency or pass-through entity.

(Ord. of 8-14-2018(1))

Sec. 2-239. - Political activities of public employee, public official, and contractor.

- (a) Employees of local units of government running for office, political campaigning by employees, and limitations on officials and employees seeking support from other employees for those campaigning for public office and for or against ballot proposals are regulated by the Political Activities by Public Employees Act, MCL 15.401 et seq. The activities permitted by the act shall not be actively engaged in by a public employee during those hours when that person is being compensated for the performance of that person's duties as a public employee. Complaints may be filed with the Michigan Department of Energy, Labor and Economic Growth. MCL 15.406. Violation of the provisions of the Act by employees and appointed officials are subject to appropriate disciplinary action, up to and including termination by the appointing authority. Violations of the article are also subject to the sanctions listed in this article.
- (b) Michigan Campaign Finance Act, MCL 169.201 et seq. Complaints regarding compliance with the Act may be filed with the Michigan Department of State.
- (c) A member or candidate for the board of trustees for the Charter Township of Canton shall not solicit contributions or endorsements from township appointees, employees, contractors or volunteers, during the course of their official duty. This provision is not intended to interfere with an individual or group's right to endorse or contribute on their own, or to prohibit soliciting contributions or endorsements outside of the course of an official duty.
- (d) Township resources shall not be used for political benefit in accordance with the Michigan Campaign Finance Act, MCL 169.257(1). A knowing violation of Section 57 of the Act is a misdemeanor offense according to MCL 169.257(4).

(Ord. of 8-14-2018(1))

Sec. 2-240. - Anti-nepotism.

Relatives of any elected official are disqualified from holding any appointed office or employment during the term for which said elected official was elected. This section shall in no way disqualify such relatives or their spouses who are bona fide appointed officials, employees, or contractors of the township at the time of the election or appointment of said official to elective board or commission office. In the event that an employee's relative is elected to one of three full time positions, that employee shall not be in a direct reporting relationship to the full time elected official.

(Ord. of 8-14-2018(1))

Sec. 2-241. - Representation before governmental body.

An official, employee, or contractor of the township shall not represent any other person in any matter that the person has before the township when the official, employee, or contractor appoints or otherwise supervises the board, commission, official or employee responsible for handling the matter.

(Ord. of 8-14-2018(1))

Sec. 2-242. - Transactional disclosure.

Whenever an official, employee, or contractor is required to recuse themselves under this article, they:

- (1) Shall immediately refrain from participating further in the matter,
- (2) Shall promptly inform their superior, if any, and
- (3) Shall promptly file with the board of ethics, and clerk of the township a signed affidavit of disclosure disclosing the reason for recusal. The clerk shall send copies of the affidavit of disclosure to all of the members of the governing body of the township and the affidavit shall be attached to the minutes of its next meeting.

(Ord. of 8-14-2018(1))

Sec. 2-243. - Annual disclosure statement.

- (a) The following elected and appointed officials and employees shall file an annual disclosure statement:
 - (1) Township supervisor,
 - (2) Township clerk,
 - (3) Township treasurer,
 - (4) Township trustee,
 - (5) Directors of departments and managers of divisions,
 - (6) Members of the zoning board of appeals, and
 - (7) Members of the planning commission.
- (b) The annual disclosure statement shall disclose the following financial interest of the official or employee or their immediate family in any company, business, or entity that has contracted with the

township or which has sought licensure or approvals from the township in the two calendar years prior to the filing of the statement:

- (1) Any interest as a partner, member, employee or contractor in or for a co-partnership or other unincorporated association;
- (2) Any interest as a director, official, employee or contractor in or for a corporation; and
- (3) Legal or beneficial ownership of 1% or more of the total outstanding stock of a corporation, excepting managed portfolios, funds, or retirement vehicles.

The annual disclosure statement shall include a summary listing each business transaction with the township involving a financial interest described in this section of the township official or employee and/or the immediate family of the official or employee during the two prior calendar years.

If there is no reportable financial interest or transaction applicable to the official or employee and/or the immediate family of the official or employee, the annual disclosure statement shall contain a certification to that effect.

(Ord. of 8-14-2018(1))

DIVISION 3. - BOARD OF ETHICS

Sec. 2-244. - Establishment.

There is hereby created a board to be known as the BOARD OF ETHICS of the Charter Township of Canton. The function of the board of ethics shall be advisory and investigatory and it is not empowered to take direct action against any person or agency. The board of ethics shall be comprised of three members:

- (1) One of whom shall be appointed by the township board,
- (2) One of whom shall be appointed by the township supervisor,
- (3) One of whom shall be appointed by the township human resources manager.

No person shall be appointed as a member of the board of ethics who is related, either by blood or by marriage up to the degree of first cousin, to any elected official of the township nor shall they be employed by the township. No more than two members of the board of ethics shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed. Members shall serve without compensation. Members of the board of ethics shall either reside or own a business inside the geographic boundaries of the township.

Township corporation counsel and the human resources manager shall serve on the board of ethics as ex officio members without the right to vote.

(Ord. of 8-14-2018(1))

Sec. 2-245. - Organization.

At the first meeting of the board of ethics, the initial appointees shall draw lots to determine their initial terms of three, two, and one year(s), respectively. Thereafter, all board members shall be appointed to three-year terms. Board of ethics members may be reappointed to serve subsequent terms.

At the first meeting of the board of ethics and thereafter at the discretion of the board, the board members shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any two board members. A quorum shall consist of two board members, and official action by the board of ethics shall require the affirmative vote of two board members.

The business of the Board of Ethics, including its hearings, shall be conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 et seq.

(Ord. of 8-14-2018(1))

Sec. 2-246. - Removal.

The township board of trustees may remove an ethics board member in case of incompetency, neglect of duty, or malfeasance in office after service on the board member by certified mail, return receipt requested, of a copy of the written charges against the board member and after providing an opportunity to be heard in person or by counsel upon not less than ten days' notice. Mid-term vacancies shall be filled by the human resources manager.

(Ord. of 8-14-2018(1))

Sec. 2-247. - Powers and duties.

The board of ethics shall have the following powers and duties:

- (1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.
- (2) Upon receipt of a written and signed complaint against an official, employee, or contractor to investigate, conduct hearings and deliberations, issue referrals for disciplinary hearings and refer violations of this article or state or federal criminal statutes to the attention of the township board with a request to the appropriate law enforcement agency for further investigation. Where a jurisdictional question arises the board of ethics may consult with the Canton Police Department for assistance. The board of ethics shall, however, act only upon the receipt of a written complaint alleging a violation of this article and not upon its own initiative.
- (3) To receive information from the public pertaining to its investigations and to seek additional information and documents from officials, employees, and contractors of the township.
- (4) To request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officials, employees, and contractors of the township to cooperate with the board of ethics during the course of its investigations. Failure or refusal to cooperate with ethics board requests shall constitute grounds for discipline or discharge of appointed officials and employees of the township.
- (5) The powers and duties of the board of ethics are limited to matters clearly within the purview of this article.

(Ord. of 8-14-2018(1))

Sec. 2-248. - Complaints.

- (a) Complaints alleging a violation of this article shall be filed with the clerk of the township or the human resources manager. The clerk or member of the clerk's staff shall attend the board of ethics meetings and act as secretary.
- (b) Within five business days after the receipt of a complaint, the clerk shall send by certified mail a notice to the respondent that a complaint has been filed against them together with a copy of the complaint. Within five business days after receipt of a complaint, the clerk shall send by certified mail a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the board of ethics hearing to determine the sufficiency of the complaint and

to establish whether there is a reasonable basis to believe that the respondent has violated this article. The clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the board of ethics and work with the chairperson to establish the hearing date, time, and location.

- (c) The board of ethics shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this article, to determine whether there is a reasonable basis to believe that the respondent has violated this article based on the evidence presented by the complainant and any additional evidence provided to the board of ethics at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the chairperson, the board of ethics shall issue notice to the complainant and the respondent of any ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated this article.

If the complaint is deemed sufficient to allege a violation of this article and the board of ethics finds reasonable basis to believe that the respondent has violated this article, then the clerk shall notify in writing the board of trustees and shall transmit the complaint and all additional documents in the custody of the board of ethics concerning the alleged violation, with the ethics board's request for the filing of appropriate criminal or civil proceedings. The clerk shall also provide these documents to the respondent's appointing authority within the township with the ethics board's request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreements, personnel/policy manual rules or other employment regulations of the township.

- (d) If a two-thirds roll call vote of the township board concurs with the request for the filing of appropriate criminal or civil proceedings, then the clerk shall notify in writing the special prosecutor designated by the township board and shall transmit the complaint and all additional documents in the custody of the township board concerning the alleged violation, with a request for the filing of appropriate criminal or civil proceedings. The clerk shall also provide these documents to the respondent's appointing authority within the township with the township board's request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreement, merit commission rules or employment regulations of the township.
- (e) Sections 2b - 2e of the State Ethics Act, MCL 15.341 et seq., set forth protections for officials and employees who act as whistleblowers regarding the conduct of the Township officials and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq.
- (f) Any person who files a complaint alleging a violation of this article knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth may be subject to a fine of up to \$500.00 as well as the reasonable costs incurred by the township in investigating the complaint and the reasonable costs incurred by the respondent in responding to the complaint.
- (g) Any person knowingly filing a frivolous complaint, or using the complaint process to harass individuals, may be subject to a fine of up to \$250.00 as well as receive formal censure from the township board of trustees upon the recommendation of the board of ethics.
- (h) A complaint must be filed with the clerk within four years of the date the offense is alleged to have occurred.

(Ord. of 8-14-2018(1))

DIVISION 4. - SANCTIONS

Sec. 2-249. - Sanctions; limitations.

Sanctions shall not be construed to diminish or impair the rights of an official or employee under any collective bargaining agreement, or personnel/policy manuals, nor the township's obligation to comply with such collective bargaining agreements and policies.

(Ord. of 8-14-2018(1))

Sec. 2-250. - Additional violations.

State statutes cited in this article may also contain criminal penalties and civil remedies that apply to the conduct regulated by this article. If the board of ethics determines in the course of their investigation that a violation may have occurred that is outside of the scope of this article, they shall refer the complaint to the appropriate law enforcement agency. In that situation the board of ethics shall discontinue any proceedings under this article so as to avoid impairing any investigation from said law enforcement agencies.

(Ord. of 8-14-2018(1))

Sec. 2-251. - Penalties.

- (a) Any person who shall be convicted by a court of competent jurisdiction of violating the provisions of this article, excepting section 2-228, shall be guilty of a misdemeanor and shall be punished by a fine of up to \$500.00 and/or 90 days in jail, in the discretion of the court.
- (b) In addition to any other penalty, whether criminal or civil, an employee, official, or contractor who intentionally violates this article may be subject to disciplinary action including censure, reprimand, removal, dismissal or discharge.
- (c) In addition, the common law offense of misconduct in office (misfeasance, malfeasance and nonfeasance) constitutes a felony as provided in the Michigan Penal Code, MCL 750.505 and willful neglect of duty constitutes a misdemeanor as provided in MCL 750.478.

(Ord. of 8-14-2018(1))

CITY OF DEARBORN BOARD OF ETHICS

Making and Resolving Complaints
<ul style="list-style-type: none">• Making a Complaint
<ul style="list-style-type: none">• Grounds for a Complaint
<ul style="list-style-type: none">• Investigative process
<ul style="list-style-type: none">• Hearing
<ul style="list-style-type: none">• Bad Faith complaint
<ul style="list-style-type: none">• Request for Opinion (Ethics Complaint)

Making and Resolving Ethics Complaints

City of Dearborn, Department of Law
Board of Ethics
16901 Michigan Avenue, Suite 14
Dearborn, MI 48126

Making a Complaint

Anyone may file a complaint with the City of Dearborn Board of Ethics if he or she has information that a public officer or employee has violated any of the provisions of the City Charter, Chapter 3, Standards of Conduct. The complaint must be in writing and must

be verified by affirmation. The Board of Ethics also has the authority to initiate complaints if it receives credible information which, if true, would merit an inquiry into whether a violation of the City Charter has occurred.

It is not enough to complain that a public officer or employee has acted improperly. A complaint must also state facts showing that the misconduct violated one of the Charter's specific rules or that it was motivated by private financial gain for the public officer or employee, or the private financial gain of another person.

A complaint is filed only when the Board receives it. Filing by facsimile or electronic mail (e-mail) is not permitted.

Grounds for a Complaint

The Dearborn City Charter, Chapter 3 establishes a code of conduct for public officers and employees. The Charter includes several rules, e.g., a prohibition against private financial interests in public contracts and a general prohibition against the use of their public positions for their own private financial gain or that of another. It is not enough to complain that a public officer or employee is guilty of misconduct, it must also appear that the misconduct violated one of these rules.

Misconduct resulting from negligence, incompetence, ignorance, insensitivity or personal animosity does not constitute a violation of the City Charter, unless it violates one of the rules contained in the MCLA Section 15.341, et seq. Criminal misconduct is not a violation of the Charter, unless it constitutes a violation of those rules.

Investigation Process

Once the Board of Ethics receives a verified complaint, it is referred to the Probable Cause Review Board appointed by the Chairperson. This three-member Board is a sub-committee of the Board of Ethics. The Probable Cause Review Board must determine whether there is probable cause to believe that a material violation of the City Charter has occurred.

The Probable Cause Review Board will conduct an investigation. Its proceedings are confidential. The Probable Cause Review Board will provide a copy of the complaint to the respondent who may make a personal appearance before the Board, or may simply make a written response to the complaint.

The Probable Cause Review Board's investigations are conducted as discreetly as possible. The necessity of interviewing witnesses and obtaining records may, however, alert some members of the public to the existence of an investigation.

To protect against public disclosure of unwarranted or frivolous complaints, the City Charter requires that, to the extent possible, all information relating to a filed complaint be kept confidential until the Probable Cause Review Board has finished its investigation and found probable cause.

The Board of Ethics is not even permitted to acknowledge the existence of a complaint until the Probable Cause Review Board has found probable cause, although it may, at the written direction of the person complained against, release information relating to an investigation.

If, following its investigation, the Probable Cause Review Board finds probable cause, the Board of Ethics will prepare a Statement of Charges against the person accused. This is much like the indictment returned by a grand jury in a criminal case.

Hearing

The members of the Board of Ethics constitute a hearing board to adjudicate the complaint. Their decision is based on evidence taken at a public hearing. It is not necessary for the complainant to appear at the hearing unless it is requested that he or she appear as a witness. A respondent may, but need not be, represented by counsel at the hearing.

If a majority of the Board members find beyond a preponderance of evidence that the accused has committed a material violation of the City Charter, the Board has authority to render an advisory opinion.

The Board of Ethics may also recommend to the appropriate governmental authority that the person be disciplined, discharged, or removed from office.

In addition to these sanctions, a violation of some of the provisions of the City Charter constitutes a misdemeanor criminal violation with penalties of up to 93 days/\$500. The Board has no criminal jurisdiction but if its proceedings uncover evidence of a criminal violation of any nature, the Board may refer the matter to the appropriate prosecuting attorney.

Bad Faith Complaint

If the Board finds by clear and convincing evidence that a person filed a complaint or provided information which resulted in an investigation knowing that material information provided was not true, or if a complaint was made or information provided in reckless disregard for its truth or falsity, then the Board shall order the person to reimburse the accused for his or her reasonable costs incurred, including the accused's attorney fees. The Board may also order the complainant or informant to reimburse the Board for its actual costs of investigation and may further decline to process any more complaints filed by the person.

**CITY OF DEARBORN BOARD OF ETHICS
REQUEST FOR OPINION
(ETHICS COMPLAINT)**

1. Provide the name, title, public agency, address, and telephone number for the public officer or employee you allege violated the Dearborn City Charter. ***(If more than one public officer or employee is alleged to have violated the law, use a separate form for each individual.)***

Name & Title: _____
Public Agency: _____
Address: _____
City, State, Zip: _____
Telephone: _____

2. Describe in specific detail the conduct of the public officer or employee identified above that you allege violated Sections ____ of the Dearborn City Charter. ***(You must include specific facts and circumstances to support your allegations – including dates, times, places, and the name and position of each person involved.)***

Check here ☐ if additional pages are attached.

3. Identify all persons who might have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Include the address and telephone number for each person.

Check here ☐ if additional pages are attached.

Name & Title: _____
Address: _____ Phone _____
City, State, Zip: _____
Nature of testimony: _____
State the total number of additional pages attached (including evidence) _____.

REQUESTOR'S INFORMATION:

Name: _____
Address: _____
City, State, Zip: _____
Phone: _____ Cell Phone _____
E-Mail address: _____

By my signature below, I affirm that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief and I am willing to provide sworn testimony if necessary regarding these allegations.

Under Michigan law, deliberate false statements and/or falsified documents constitute perjury.

Signature

Date

Printed Name

Please return an original signed form, two copies of the form, and three copies of the supporting documents and evidence to:

City of Dearborn, Department of Law
Board of Ethics
16901 Michigan Avenue, Suite 14
Dearborn, MI 48126

Ethics complaints submitted by facsimile or electronic mail will not be considered as properly filed with the Board of Ethics.



RULES of the COUNCIL AND PERTINENT CHARTER PROVISIONS

As Approved on December 21, 2020

FOREWORD

Section 4.4(e) of the Ann Arbor City Charter provides that the City Council "shall determine its own rules and order of business." At its first meeting held under the new Charter, on April 16, 1956, Council formally adopted rules of procedure, which have from time to time been amended by resolution.

This revision date is December 21, 2020.

Certain charter provisions are listed in the appendix.

Jacqueline Beaudry

Clerk of the Council

Table of Contents

FOREWORD.....	2
Organization of Council.....	6
RULE 1 Review and Adoption of the Rules.....	6
RULE 2 Acting Mayor and the Order of Succession	6
Setting the Meeting Time and Day	6
RULE 3 - Time of Council Meetings	6
RULE 4 Setting the Working Session Format	7
RULE 5 Setting the Agenda for Action Meetings	7
5A – Preparation of the Agenda	7
5B – Review of the Draft Agenda	8
5C - Categories	8
5D – Format of Agenda.....	9
5E – Publication of Agenda, Minutes and Meeting Notices	9
Council Meeting Procedures.....	9
RULE 6 - Call of Council Absentees	9
RULE 7 - Addressing Council during Meetings	10
RULE 8- Voting.....	11
RULE 9 - Nominations or Appointments to Boards, Commissions or Committees	11
RULE 10 – Council Conduct of Discussion and Debate	12
RULE 11 - Resolutions and Motions to Be Made In Writing	12
RULE 12 - Motion to Lay on the Table	13
RULE 13 - Consideration of Questions	13
Agenda items – Introduction, Referral, and Approval.....	13
RULE 14 – Amending a Motion	13
RULE 15 - Ordinances, How Introduced.....	13
RULE 16 - Demise of Ordinances and Resolutions.....	13
RULE 17 - Committees and Officers Must Report.....	13
RULE 18 – Council Email	13
RULE 19 - How Rules may be Altered	14
RULE 20 - What Other Rules Shall Govern.....	14
RULE 21 – Council Committees.....	14

COUNCIL ADMINISTRATIVE RULE 1–ADMINISTRATIVE RESPONSIBILITY.....	15
COUNCIL ADMINISTRATIVE RULE 2–WRITTEN COMMUNICATIONS TO COUNCIL – REQUIRED FORWARD TO CITY ATTORNEY.....	15
COUNCIL ADMINISTRATIVE RULE 3 – REIMBURSEMENT OF COUNCIL EXPENSES.....	15
COUNCIL ETHICS RULE 1 -- CONFLICTS OF INTEREST – RELATING TO CONTRACTS.....	17
COUNCIL ETHICS RULE 2 -- CONFLICTS OF INTEREST – FINANCIAL MATTERS	18
COUNCIL ETHICS RULE 3 -- CONFLICTS OF INTEREST – COUNCILMEMBER’S OWN CONDUCT	18
COUNCIL ETHICS RULE 4 -- CONFLICTS OF INTEREST – OTHER REASONS FOR EXCUSAL FROM VOTING	19
COUNCIL ETHICS RULE 5 -- IMPROPER USE OF POSITION -- GIFTS	19
COUNCIL ETHICS RULE 6 -- IMPROPER USE OF OFFICIAL POSITION – DISCLOSURE OF CONFIDENTIAL INFORMATION	21
COUNCIL ETHICS RULE 7 - IMPROPER USE OF OFFICIAL POSITION – MISUSE OF CITY RESOURCES...	22
COUNCIL ETHICS RULE 8 -- IMPROPER USE OF OFFICIAL POSITION -- REPRESENTATIONS	22
COUNCIL ETHICS RULE 9 -- IMPROPER USE OF OFFICIAL POSITION – POLITICAL SOLICITATION	23
COUNCIL ETHICS RULE 10 -- IMPROPER USE OF OFFICIAL POSITION – NEPOTISM	23
COUNCIL ETHICS RULE 11 -- IMPROPER USE OF POSITION – APPEARANCE BEFORE BOARDS AND COMMISSIONS	23
COUNCIL ETHICS RULE 12 – COUNCIL SELF-GOVERNANCE	24
Appendix – Charter Provisions.....	29
Section 4.1. The Council.....	29
Section 4.2. The Mayor	29
Section 4.3. The Mayor Pro Tem.....	29
Section 4.4. Meetings of the Council	29
Section 4.5. Veto Power of Mayor	30
Section 7.1. Legislative Power.....	31
Section 7.3. Introduction, Consideration, and Style of Ordinances.....	31
Section 7.4. Publications of Ordinances.....	31
Section 7.5. Penalties	32
Section 7.8. Technical Codes.....	32
Section 8.6. Adoption of Budget	32
Section 8.9. Effects of Adoption of Budget	32
Section 8.10. Transfer of Appropriations.....	32

Section 8.11. Budget Control33

Section 8.12. Contractual Claims against City.....33

Section 8.13. Notice to City of Claim for Injuries33

Section 8.14. Withdrawal of City Funds.....33

Section 8.17. Municipal Borrowing.....33

Section 10.1. General Powers Relative to Special Assessments34

Section 14.1. Authority of Council35

COUNCIL MEETING RULES

Organization of Council

RULE 1 Review and Adoption of the Rules

Rules shall be reviewed and adopted by the third Council meeting after each general election of Council members.

RULE 2 Acting Mayor and the Order of Succession

Council shall at the time the rules are adopted pass a resolution stating the order of succession of council members to be Acting Mayor in the event neither the Mayor nor Mayor Pro Tem is present for the convening of the scheduled meeting and to fill the need for the Emergency Preparedness Plan.

Setting the Meeting Time and Day

RULE 3 - Time of Council Meetings

Council shall establish a calendar of the time and place of regular meetings of Ann Arbor City Council by the third regular Council meeting after the general election.

Regular meetings of the Ann Arbor City Council shall be held on the first and third Monday of the month at 7:00 p.m., in the Council Chamber at City Hall, with exceptions as defined below:

- When the first or third Monday is a major holiday, in which case the meeting shall be held the next secular day (Tuesday), or a later day that same week as set by Council.
- When the first or third Monday precedes an election day, in which case it will be held on Thursday of that week.
- When Council Chambers at City Hall are unavailable due to construction or other reasons, Council Meetings shall be re-located to another suitable location.
- For the purpose of this rule, major holiday shall be defined as:
 - any civic holiday observed by the City of Ann Arbor.
- Council shall also avoid scheduling work sessions on major holidays and, when possible, avoid scheduling special sessions on major holidays.

Council may, by majority vote, adjust the schedule of regular meeting times and places to accommodate special elections, construction, or other external contingencies that were unanticipated when the calendar was initially set.

(City Charter, section 4.4)

RULE 4 Setting the Working Session Format

The second and fourth Monday of the month may be set-aside for the Council Work Session. The Council Work Session may be scheduled for other days if authorized by a majority vote of the Council. Public hearings may be scheduled for the first, second, third and fourth Monday.

A working session of the Council may be scheduled for any other day of the week or at other locations, provided that such change is given regular public and legal notice.

RULE 5 Setting the Agenda for Action Meetings

5A – Preparation of the Agenda

The agenda for each Regular Council meeting and Council Work Session shall be prepared by the City Administrator. A resolution approving a contract shall only be included on the agenda if the City Attorney has reviewed the contract and the result of that review is included or with the proposed resolution.

The agenda for Regular Council meetings will be prepared in accordance with the following order of business:

- Call to Order
- Moment of Silence
- Pledge of Allegiance
- Roll Call of Council
- Approval of the Agenda
- Communications from the City Administrator
- Introductions
- Public Commentary - Reserved Time
- Communications from Council
- Communications from the Mayor
- Consent Agenda
- Public Hearings
- Approval of Council Minutes
- Ordinances - Second Reading
- Ordinances - First Reading
- Motions and Resolutions
 - Council Business
 - Boards and Commissions
 - Staff
- Communications from the City Attorney
- Clerk's Report of Communications, Petitions and Referrals
- Public Commentary - General
- Communications from Council
- Adjournment

The agenda for Council Work Sessions will be prepared in accordance with the following order of business:

- Call to Order
- Work Session
- Public Commentary – General (Must begin no later than 8:45 p.m.)
- Adjournment

To the extent possible, multiple items addressing the same property or issue will be grouped together on the agenda.

5B – Review of the Draft Agenda

The City Administrator shall submit the draft agenda and supporting materials to all Council members at least 10 days prior to the regular meeting to which the agenda pertains. Council members shall submit all questions about the agenda to the City Administrator no later than noon on Wednesday of the week before the regular meeting and the City Administrator shall provide answers to those questions by 5:00 p.m. the next day (Thursday). If the City is closed on Wednesday or Thursday of the week prior to the regular meeting, Council members shall submit all questions no later than 10:00 a.m. and the City Administrator shall provide the answers by 5:00 p.m. of the following Monday. Once the City Administrator has submitted the draft agenda to Council, no matter from staff shall be placed on the agenda. Council members may add items to the agenda at any time, but will use best efforts to do so prior to 5:00 p.m. on the Tuesday before the next Council meeting.

5C - Categories

Under each agenda category for action, Council shall place unfinished business of Council on the agenda for first consideration; then new business proposed by members of the Council shall be considered; then other new business shall be considered.

Communications from Council

This place on the agenda is reserved for Council Members to make announcements, request reports and speak on subjects, which they deem important, report out on committees and give notice of future proposed business.

Approval of the Agenda

Matters not on the published agenda may be added at the time of approval of the agenda with the consent of 3/4 of the members present. The Mayor or City Administrator may delete items from the published agenda at the request of the initiator of the proposed action prior to approval of the agenda.

Consent Agenda

The Consent Agenda shall consist of ordinances and resolutions considered routine. Items on the Consent Agenda may be approved by a single motion. The motion to approve the Consent Agenda shall not require the reading of the titles of items on that agenda other than ordinances. If any member of the Council objects to consideration of an item as part of the Consent Agenda, that item shall be moved to the end of the appropriate portion of the regular agenda.

Motions and Resolutions

DC - Council Resolutions: All resolutions from Council.

DB – Boards and Commissions: All resolutions from Advisory Committees, Boards and Commissions.

DS – Staff: All resolutions from Staff.

Communications and Petitions

The City Clerk, under the direction of City Administrator, shall prepare for each regular Council meeting a report containing all communications and other matters recommended to be filed, referred or otherwise handled and stating the recommended action for Council to take. Upon passage of a motion to accept the Clerk's Report, the action recommended for all matters listed in the report shall be the action of the Council unless objection is made, in which case the matter objected to shall be taken up and acted on separately. The Clerk's Report shall be limited to official correspondence addressed to the City. Individual Councilmembers wishing to share communications shall do so under Communications from Council.

5D – Format of Agenda

The Administrator and Clerk shall prepare all documents and agenda materials in electronic format consistent with the technology used by City Council. Hard copy will be provided at the Council meeting and to the public upon request.

5E – Publication of Agenda, Minutes and Meeting Notices

After submission of the agenda to Council under 5B, the agenda for all meetings of Council, including Work Sessions, shall be published by prominent link on the home page of the City's Website, distributed electronically to each branch of the Ann Arbor District Libraries, and posted in the lobby of City Hall. The Clerk shall use best efforts to promptly disseminate amended agendas by the foregoing distribution channels.

All minutes of the proceedings of the Council, as well as the agendas of work sessions, shall be published by prominent link on the home page of the City's Website, distributed electronically and to each branch of the Ann Arbor District Libraries, and posted in the lobby of City Hall until the next Council meeting.

Council Meeting Procedures

RULE 6 - Call of Council Absentees

The Chair or any of the members may have a call of the Council, and the City Clerk shall note the names of the absentees.

RULE 7 - Addressing Council during Meetings

Public Commentary - Reserved Time:

A total of 10 speakers shall be allowed to address Council during the time designated as *Public Commentary - Reserved Time* by signing up with the City Clerk either in person or by telephone. Each person may speak a maximum of 3 minutes. Speaking times are not transferable, and vacated speaking times shall be assigned to the two alternate speakers on the waiting list. *Speakers may not use public commentary-reserved time to address Council on an agenda item for which a public hearing is scheduled for the same meeting.*

On the morning of the regular meeting of the City Council, the City Clerk shall sign up persons interested in speaking during the time designated as *Public Commentary - Reserved Time* as follows:

- a. Between 8 a.m. and 1 p.m. the clerk shall accept requests for speaking times. At 1 p.m. speaking times will be allocated to people who have requested them in the following order of priority:
 - Persons wishing to address Council on agenda items who have not spoken during the previous two public comment reserved times.
 - Other persons wishing to address Council on agenda items.
 - Persons wishing to address Council on any other matter.
- b. After 1 p.m. on that same day, speakers wishing to address Council on any matter will be signed up strictly on a first come, first served basis for any remaining times. Two alternates may also be designated. The Clerk shall inform people who have requested but not received speaking times of the status of their request.

Public Speaking Rules

Speakers and the public shall obey all rules announced by the Chair or his or her designee, including the following general rules:

1. All public speakers must speak from the podium.
2. Members of the public shall not disturb speakers at the podium.
3. Members of the public shall not interrupt Council members or staff while they are speaking during a meeting or otherwise disrupt a Council meeting.
4. The public should sit on the benches and not stand. If members must stand, then it will be at a designated area.
5. Members of the public holding up signs must sit on the back benches so that their signs do not interfere with others. Signs must be hand held and not attached to any pole or stick.
6. If speakers have materials they wish to hand out, they must signal to the clerk who will come forward to the speaker and hand them out.
7. When speakers are finished, they shall not disturb other speakers or disrupt the council meeting as they leave.

Public Commentary - General:

During the time designated as *Public Commentary - General*, those wishing to address Council will be recognized by the Chair to speak for up to 3 minutes.

Public Hearings

Persons speaking at a Public Hearing must limit their remarks to the subject of the public hearing and shall not speak for more than 3 minutes.

Time Limit Waiver

The Council may, by majority vote, modify or waive the 3-minute speaking limitation.

Members of Audience Addressing Council

Upon the request of a member of the Council, a member of the audience shall be permitted to address the Council at a time other than during public commentary, unless a majority of members of Council object.

Disorderly Conduct at Meetings

The Chair may call to order any person who engages in personal attacks, (which are unrelated to Council Business) who uses obscene or grossly indecent language, who speaks longer than the allotted time, who disrupts the proceedings or who otherwise violates the rules of this Council. Failure to come to order may result in the microphone being shut off, the forfeiture of any remaining speaking time, or, at the request of the Chair, expulsion from the meeting.

Furthermore, if a speaker or a member of the public does not follow applicable rules during a Council meeting, disturbs the peace at a Council meeting or endangers the safety of the Council or the public at a council meeting, that individual may also have further restrictions placed upon them as necessary, including forfeiture of their right to speak at or right to attend future Council meetings. Such actions are to be determined by Council and shall be consistent with the Michigan Open Meetings Act.

RULE 8- Voting

In all cases where a vote is taken, the Chair shall decide that result. A roll call vote shall be called upon the request of any member of the Council. The roll call voting order shall rotate around the council table with the Mayor voting in the rotation.

RULE 9 - Nominations or Appointments to Boards, Commissions or Committees

Nominations or appointments to boards, commissions, or committees, which require the confirmation or approval of Council, shall not be confirmed or approved before the next regular meeting of the Council except with the consent of 8 of the members of the Council. When required by ordinance or otherwise deemed in the best interest of the City, the Charter residency requirement for nomination or appointment of an individual to a board, commission or committee is waived by a resolution concurred in by not less than seven members of Council.

RULE 10 – Council Conduct of Discussion and Debate

- No member shall speak until recognized for that purpose by the Chair.
- The member shall confine comments to the question at hand and avoid personal attack.
- A member shall not speak more than two times on a given question, three minutes the first time, three minutes the second time, except with the concurring vote of 3/4 of the members present. A motion to call the previous question (call for cloture) is in order after thirty (30) minutes of discussion on the question. Upon a motion to call the previous question, all discussion is ended, provided that each member who has not yet held the floor will have an opportunity to do so. A motion to call the previous question shall require a concurring vote of 3/4 of the members present.
- Electronic communication during Council meetings shall pertain only to City matters.
- During Council meetings, members shall not send private electronic communication to persons other than City Staff; provided however, that members may send draft motions, resolutions, and amendments to the City Clerk who will forward them to members of Council. Members shall not respond to member-distributed draft language via electronic communication. All draft language sent by electronic communication during Council meetings shall be read into the record prior to discussion by Council. Members **will not** send publicly-accessible electronic communications (e.g. Twitter and FaceBook posts) **during meetings.**
- Electronic communication sent and received by a member during a Council meeting shall be included in the minutes of such meeting, provided that the minutes shall not include electronic communication received by a member that clearly does not relate to the subject matter of the meeting.
- A member shall not use their personal mobile devices to answer phone calls or send electronic communications, including text messages, while seated at the Council table. Members who have a need to attend to personal business shall step away from the Council table to do so.

RULE 11 - Resolutions and Motions to Be Made In Writing

Every resolution and ordinance shall be in writing. Resolution titles shall, unless impractical or required by law, be twenty (20) words or less and describe in plain language the subject matter thereof. When any motion has been made and seconded, it shall be stated by the Chair and shall not be withdrawn thereafter except by consent of the majority of the members of the Council present.

RULE 12 - Motion to Lay on the Table

A motion to table shall only be in order “when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed” (RROR Newly Revised in Brief, p. 119) and the name of the person making the motion and the rationale for tabling should appear in the minutes.

RULE 13 - Consideration of Questions

When a question has been taken, it shall be in order for any member voting with the prevailing side to move a reconsideration thereof at the same or the next regular meeting; but, no question shall a second time be reconsidered.

Agenda items – Introduction, Referral, and Approval

RULE 14 – Amending a Motion

To promote expediency, motions may be amended by with a "friendly amendment" with the concurrence of the council members who moved and seconded the motion. However, as the motion belongs to the Council and not the movers, any other Council member may object to a friendly amendment and request a vote on the proposed amendment.

RULE 15 - Ordinances, How Introduced

Proposed ordinances shall be introduced by one or more individual members of Council. Ordinances may be referred to any or all of the following: the City Attorney, the City Administrator, appropriate agencies, and Council committees, for study and recommendation.

RULE 16 - Demise of Ordinances and Resolutions

An ordinance passed at First Reading that is not placed on the Council's agenda (for whatever reason) for Second Reading within six months of First Reading passage is deemed demised and must be reintroduced at First Reading if it is to be reconsidered.

A resolution that has been tabled for six months shall be considered demised and may not be the subject of a motion to take from the table.

RULE 17 - Committees and Officers Must Report

All committees and officers shall make immediate report on matters referred to them at the first stated meeting of Council after such referrals are first addressed by the committee or the officer unless another time shall be given them by the Council or unless requested to report to the work committee. In any event, a status report should be given to the Council by a committee after each meeting of the committee at which the referred matter is discussed.

RULE 18 – Council Email

Councilmembers shall use the City electronic mail system for their electronic mail communications for City business.

RULE 19 - How Rules may be Altered

Council-adopted rules may be altered or amended by a vote of the members at the time of their annual adoption under Rule 1. Council-adopted rules may be altered or adopted at any other regular Council meeting, if notice of the changes proposed to be made shall have been distributed to all members of the Council in advance of the meeting as part of the distribution of the Council agenda and materials. The notice requirement does not preclude Council Members from offering amendments to the proposed rule changes from the floor.

Council-adopted rules may be suspended for the time being by a vote of the Council.

RULE 20 - What Other Rules Shall Govern

The rules of parliamentary practice, comprised in Robert's Rules of Order, shall govern the Council in all cases to which they are applicable, provided they are not in conflict with these rules or with the charter of the City.

RULE 21 – Council Committees

A special meeting of a Council Committee may be called by written request of the Chair or three members of the Committee, which request shall be sent to the City Clerk.

Council Administrative Rules

COUNCIL ADMINISTRATIVE RULE 1–ADMINISTRATIVE RESPONSIBILITY

A councilmember shall not encroach on administrative responsibilities. City Council provides direction to the City Administrator, who then provides direction to staff. A councilmember shall not give orders or directives to staff, either publicly or privately. Councilmembers may make inquiries or exchange or request information according to the “Interaction with City Staff” guidelines developed by the City Administrator.

Rationale – The daily business of government involves responding to correspondence, emails, and constituent requests. Establishing a practice of how to handle these items ensures fair treatment among all members of the governing body. Councilmembers shall follow the “Interaction with City Staff” guidelines stated in the “City of Ann Arbor Elected Officials Handbook”.

Source: City Charter, Section 5.1(b)(1). The Charter provides broad authority to the City Administrator to direct, supervise, and coordinate the work of the City.

Example:

A Councilmember should not contact the Director of Human Resources about a personnel issue involving a City employee.

COUNCIL ADMINISTRATIVE RULE 2–WRITTEN COMMUNICATIONS TO COUNCIL – REQUIRED FORWARD TO CITY ATTORNEY

Councilmembers shall immediately forward to the City Attorney all written communications concerning pending litigation sent to, or received from, 1) any party to litigation against the City or 2) any attorney who is representing a party in that litigation.

Councilmembers shall immediately forward to the City Attorney all written communications sent to or received from any attorney who is threatening litigation against the City of Ann Arbor.

COUNCIL ADMINISTRATIVE RULE 3 – REIMBURSEMENT OF COUNCIL EXPENSES

In the interest of supporting Councilmember professional development and providing a means to account for small expenses incurred in the course of City-related business, the City may provide Councilmembers with an expense allowance as part of the City’s annual budget. These expenses may include training, attendance at conferences, and purchase of materials in support of City business.

Reimbursements for Council expenses follow the requirements of Chapter 5 of the *Guide to City Finance* and other relevant policies. Payment of expenses is made on a reimbursement basis. Any unused allowance amounts at the end of the fiscal year are returned to the City’s General Fund balance.

Councilmembers may not “trade” balances with other members to avoid the designated cap on allowances.

Transactions that are determined to be of personal use/benefit or of a political nature will not be reimbursed.

Payments for alcoholic beverages or other legal intoxicants are not allowed.

Payment of independent contractor services (including guest speaker), by an employee, will not be reimbursed.

Payment of expenses for work performed that is not for the benefit of the City of Ann Arbor will not be reimbursed.

Requests for reimbursements of expenses must be supported by appropriate receipts and documentation. Requests for reimbursement will be submitted through the Management Assistant in the Mayor’s Office and will be approved by the Mayor. The City’s Chief Financial Officer will prepare a monthly report on Council reimbursements and provide the report to the Mayor.

Council Ethics Rules

COUNCIL ETHICS RULE 1 -- CONFLICTS OF INTEREST – RELATING TO CONTRACTS

A Councilmember shall not vote on any contract in which the Councilmember has a conflict as set forth in MCL 15.321, the state contracts statute. This statute is the sole definition of conflicts as related to contracts and it states:

- (1) Except as provided in sections 3 and 3a of the state statute,¹ **a public servant shall not be a party, directly or indirectly, to any contract** between himself or herself and the public entity of which he or she is an officer or employee.
- (2) Except as provided in section 3, **a public servant shall not directly or indirectly solicit any contract** between the public entity of which he or she is an officer or employee and any of the following:
 - (a) Him or herself.
 - (b) Any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee.
 - (c) Any private corporation in which he or she is a stockholder owning more than 1% of the total outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer, or employee.
 - (d) Any trust of which he or she is a beneficiary or trustee.
- (3) In regard to a contract described in subsection (2), **a public servant shall not do either of the following:**
 - (a) Take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract.
 - (b) Represent either party in the transaction.

The conflict restrictions of this statute **do not apply to “contracts between public entities.”**

Rationale: All Councilmembers are governed by the state conflicts law and it is helpful to remind the public that this is the only applicable law on this topic, notwithstanding anything to the contrary in the City Charter.

Source: MCL 15.321 (See statute at “Contracts” tab attached)

Example:

A Councilmember employed by the University of Michigan would properly vote on a contract between the City and the University as the conflict prohibition does not apply to a contract between two public entities as set forth in MCL 15.324(1)(a).

A spousal “relationship” is not a contract conflict that has been recognized under Act 317. The Attorney General found that no conflict existed under Act 317 where an attorney represented the school district (under a contract) where his wife worked as a teacher (under a contract.) Mich AG No. 6736. So while the attorney’s wife has a contract with the school district, he is not a party to her contract **directly or indirectly** under the statute.

COUNCIL ETHICS RULE 2 -- CONFLICTS OF INTEREST – FINANCIAL MATTERS

A Councilmember shall not vote on a question in which the member has a financial interest, other than a financial interest which is part of the general public interest. In other words, the Councilmember’s financial interest must be direct and unique to the councilmember and not a financial interest shared by other members of the public. This rule does not apply to a vote on a contract, which is governed by Rule 1.

Rationale: The provision makes clear that the Charter provision language only applies to matters other than contracts.

Source: Charter, Section 4.4(i).

Examples:

A Councilmember should not vote on a resolution for the City to condemn his or her own property because he or she has a financial interest in this matter.

A Councilmember is not disqualified from voting on an assessment, even when the assessment is limited to the street the Councilmember lives on. This has been held to be a legislative vote, where the Councilmember’s interest is in common with the public subject to the taxation.

COUNCIL ETHICS RULE 3 -- CONFLICTS OF INTEREST – COUNCILMEMBER’S OWN CONDUCT

A Councilmember shall not vote on any questions involving the Councilmember’s own conduct including those of excusal and discipline of that Councilmember. This rule does not apply to a vote on a contract, which is governed by Rule 1.

Rationale: The provision makes clear that the Charter provision language only applies to matters other than contracts.

Source: Charter, Section 4.4(i).

Example:

To the extent there was a vote to excuse a Councilmember from voting or a vote to discipline a Councilmember that Councilmember could not vote on that excusal or on his discipline.

COUNCIL ETHICS RULE 4 -- CONFLICTS OF INTEREST – OTHER REASONS FOR EXCUSAL FROM VOTING

It is required that all Councilmembers vote on all matters, unless excused after a vote of the Council. Other than conflicts governed by the state conflicts statute, conflicts involving financial interest (but not governed by the contracts statute), and matters involving the Councilmember's own conduct, other requests for excusal shall generally be weighed against the policy expressed in the City Charter in favor of voting on all matters. A Councilmember may be excused if the Councilmember asserts that he or she has a personal relationship with the matter at issue that 1) impairs his or her exercise of independence of judgment on the matter, or 2) creates a situation with conflicting fiduciary duties.

Rationale: This provision provides the reasons for which a Councilmember may ask for excusal from voting on a matter not governed by Rules 1 through 3.

Source: Charter, Section 4.4(f)

Example: A Councilmember is the chairperson for a non-profit organization's fundraising committee for a new building. If the site-plan is before the Council for approval and the Councilmember asserts conflicting fiduciary duties, the Council could excuse the Councilmember from voting on the site-plan.

COUNCIL ETHICS RULE 5 -- IMPROPER USE OF POSITION -- GIFTS

Proposed Rule: A Councilmember shall not accept a gift or loan of money, goods, services, or item of value from any individual, company, or organization that is given to a Councilmember because of his or her Council position; nor shall a Councilmember solicit any such gift or loan.

This rule does not apply and is not intended to apply to personal gifts or loans from family members or friends, unrelated to the Councilmember's position on Council, except if the family member or friend has an existing business relationship with the City or has had such a relationship with the City within the past 3 years. This rule does not apply and is not intended to apply to business or personal loans relating to the personal or business finances of a Councilmember, such as a home mortgage received from a bank.

This rule does not apply to political contributions obtained in compliance with state campaign finance law.

This rule does not apply to food or beverages provided at social events sponsored by individuals, companies, or organizations and attended by Councilmembers as well as other invited members of the public. This rule does not apply to other products with an estimated value under \$20 that are generally distributed at an educational seminar or event. This rule does not apply to written materials received for educational or informational purposes.

This rule does not apply to attendance at educational events hosted by non-profit or governmental entities to which Councilmembers are invited or attend. Nor does it apply to reimbursement for, or fee waiver for, travel, food, and lodging expenses to an educational event related to municipal issues provided by a non-profit or governmental entity. If a Councilmember attends such an event, the Councilmember shall provide to the City Clerk for posting as a Council communication: a list of expenses reimbursed and provided and the nature of the educational event.

When a fee waiver or reimbursement for travel, food, and lodging expenses is offered by an entity whose governing body is composed of members a majority of whom are appointed or approved by the Mayor or Council, this rule shall be applied as follows: A Councilmember shall not accept any fee waiver or reimbursement from that entity, unless the entity has communicated the availability of the reimbursement opportunity to the full Council and Council has determined by a vote at an open meeting which Councilmember(s) can accept the offer of reimbursement, and the Councilmember is among those voted to accept the offer of reimbursement.

This rule does not apply to minor refreshments (such as bottles of water or cups of coffee) under any circumstance. This rule does not apply to a waiver of fees to attend a political, governmental, or charitable or non-profit event.

Rationale: This provision attempts to provide a reasonable and definition of gift, recognizing that a Councilmember also has a personal life in which gifts are customarily given and received and recognizing that a Councilmember attends social functions along with other members of the public at which food and beverages are served.

Source: City Employee Rule 2.3
Act 196, MCL 15.342 (4)
Model Ethics Rules, Rule 4

Examples:

A Councilmember may accept food served at an open house for a non-profit at which Councilmembers attend.

A Councilmember may accept a ticket to attend a political event whether or not the Councilmember has a role in the program at the event.

A Councilmember may not accept tickets to sporting events from the University of Michigan.

A Councilmember may accept tickets to a sporting event from a friend or family member, except if the friend or family member has an existing business relationship with the City or has had such a relationship in the prior 3 years.

COUNCIL ETHICS RULE 6 -- IMPROPER USE OF OFFICIAL POSITION – DISCLOSURE OF CONFIDENTIAL INFORMATION

A Councilmember shall not divulge to an unauthorized person, confidential information acquired by virtue of his or her position as a Councilmember until a time that that information becomes public information. Furthermore, a Councilmember may not use confidential information, obtained by virtue of his or her position, for his or her own benefit or for the benefit of any other person or entity. Confidential information is information acquired by a Councilmember in the course of holding public office that is not available to members of the public and which the Councilmember is prohibited to disclose by statute or fiduciary duty or other common law duty.

Rationale: Councilmembers obtain confidential information based on their position. They have a fiduciary obligation to keep that information confidential.

Source: City Employee Rule 3.4
Act 196, MCL 15.342, Rule 1
Model Ethics, Section 7

Examples:

A Councilmember shall not disclose, for example, the following:

- a) Investigating records compiled for law enforcement purposes, as set forth in MCL 15.243(1) (b).
- b) A record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime as set forth in MCL 15.243(1) (c).
- c) Records or information specifically described and exempted from disclosure by statute. MCL 15.243 (1) (d)
- d) Information or records subject to the attorney-client privilege as set forth in MCL 15.243 (1)(g).
- e) Appraisals of real property to be acquired by the City until conditions set forth in MCL 15.243(1)(j) are met.

A Councilmember shall not disclose matters discussed in closed session, as governed by the Michigan Open Meetings Act, including but not limited to :

- a) Labor and negotiation strategy connected to a collective bargaining agreement;
- b) Possible purchase or lease of real property;
- c) Matters regarding trial or settlement strategy in connection with pending litigation;
- d) Material exempt from discussion or disclosure by state or federal statute.

COUNCIL ETHICS RULE 7 - IMPROPER USE OF OFFICIAL POSITION – MISUSE OF CITY RESOURCES

A Councilmember shall not use or authorize the use of City funds, property, personnel, office space, equipment, supplies, or vehicles for personal benefit or the benefit of others. However, a Councilmember may use City property on the same terms and conditions as it is available to the public generally. A Councilmember can use the city provided computer for personal use as set forth in the City computer use policy, but not for personal business use or political activity.

Rationale: A Councilmember may have access to City resources and should use those resources only for City business.

Source: City Employee Conflict of Interest policy 2.3, para. 3.4

Act 196, MCL 15.342 (3)

Model Ethics Code, Rule 11

Act 388, MCL 169.201 (1) (Michigan Campaign Finance Act)

Examples:

A Councilmember may not use City office supplies for political campaign or other personal purposes.

A Councilmember may not use a City car to make a personal trip.

A Councilmember may rent a City facility for a personal event (for example at Cobblestone farm) on the same terms and conditions as it is available to the public generally.

A Councilmember may not intervene directly with a police officer concerning a ticket given to a resident as it would be an improper use of the Councilmember's position and improper use of personnel on behalf of another person. (However, it would not be improper for a Councilmember to raise a policy issue concerning policing practices with the Council, Police Chief, or City Administrator.)

COUNCIL ETHICS RULE 8 -- IMPROPER USE OF OFFICIAL POSITION -- REPRESENTATIONS

A Councilmember shall not represent that he or she is authorized to speak for the entire Council.

Rationale: An individual Councilmember has no authority to bind the City and decisions of the Council must be made in open session, so therefore any representation of the City's position would be inaccurate and misleading.

Source: Act 196, MCL 15.341(2)

Example: A Councilmember shall not represent to a developer that a development project would be acceptable to the entire City Council if proposed.

COUNCIL ETHICS RULE 9 -- IMPROPER USE OF OFFICIAL POSITION – POLITICAL SOLICITATION

A Councilmember shall not request any City employee (that the Councilmember knows to be a City employee) to participate, or not participate, in any political activity, including the making of a campaign contribution. This rule does not prohibit a Councilmember from providing political literature to City employees at their residence, or away from the work site, in the same manner as other residents. A Councilmember shall not knowingly send unsolicited political e-mail to City employees at their City e-mail addresses.

Rationale: Solicitation of employees creates the appearance of coercion. Employees may feel compelled to act in a certain manner if requested by a Councilmember. Moreover, employees have the legal right to engage in political activities, including those related to City politics. MCL 15.403(1). Therefore, Councilmember may not request that an employee cease political activity.

Source: Model Ethics Code, Rule 8.

Example:

A Councilmember cannot request that a City employee make a contribution to his political campaign.

COUNCIL ETHICS RULE 10 -- IMPROPER USE OF OFFICIAL POSITION – NEPOTISM

No Councilmember shall influence or attempt to influence the hiring by the City of any member of the Councilmember's family.

Rationale: This rule sustains the fairness of the City's hiring and employment practices.

Source: Model Ethics Code, Rule 12.

Example:

A Councilmember cannot ask a Service Area Administrator to hire his daughter for an open position.

COUNCIL ETHICS RULE 11 -- IMPROPER USE OF POSITION – APPEARANCE BEFORE BOARDS AND COMMISSIONS

A Councilmember shall not appear before the following boards and commissions on his or her own behalf or on behalf of another:

- Building Board of Appeals
- Design Review Board

- Historic District Commission
- Liquor License Review Committee
- Planning Commission
- Zoning Board of Appeals

Rationale: Quasi-judicial boards and commissions, such as the Zoning Board of Appeals and Building Board of Appeals, as well as boards and commissions that take quasi-judicial actions, or are required by Michigan law to make recommendations to the Council, should be able to make their decisions independent of the influence of individual Councilmembers. Under this rule, a Councilmember may file a petition or an appeal with a listed board or commission and may send a representative to act on his or her behalf for the petition or appeal.

Source: Michigan Case Law.

Example:

A Councilmember shall not appear at a Liquor License Review Committee and speak on behalf of, or against a bar regarding a liquor license renewal.

COUNCIL ETHICS RULE 12 – COUNCIL SELF-GOVERNANCE

City Council has determined that the internal regulation of the behavior of City Councilmembers through counseling or reprimand should be done according to the following procedure.

1. **Counseling.** Counseling refers to the meeting by the Council Administration Committee with a Councilmember for the purpose of discussing a Councilmember's action or actions that are considered a violation of a law, Council Ethics Rules, or Council Administrative Rules, but considered by the Council to be not sufficiently serious to require reprimand. Matters eligible for Counseling include: A first violation of the Council ethics or administrative rules.

2. **Reprimand.** A reprimand is a formal public statement by the Council that a Councilmember's actions are in violation of law or Council Ethics Rules or Council Administrative Rules., but considered by the Council not sufficiently serious to require removal. It is not necessary that counseling precede a reprimand depending on the nature of the violation. A reprimand may be issued based upon the Council's review and consideration of a written allegation of one or more violations. Matters eligible for reprimand include the following: Repeated violations of the Council Ethics or Administrative rules within a term of office. Failure to attend counseling when determined by the Council that counseling was warranted.

3. Requests for Counseling for a Councilmember

a. Any Councilmember may raise with the Chairperson, either in writing or orally, a question whether an action of a Councilmember warrants an informal discussion with a Councilmember about the conduct in question. The Chairperson shall within 14 days determine whether to take no action, to have an informal discussion with the Councilmember with one other member of the Administration Committee present, or, because of the nature of the conduct, to request that a written, sworn, and signed statement of the Councilmember raising the issue be required. If no action is taken or an informal discussion takes place, the Chairperson shall report the general details of the complaint and action taken, absent identifying information of the Councilmember who raised the issue and the Councilmember who is the subject of the complaint; this report shall be made at the next meeting of the Administrative Committee.

b. Any Councilmember may file a written, sworn, and signed statement with the Council Administration Committee requesting counseling of another Councilmember for allegations concerning violations of law, ordinance, Council Ethics Rules or Council Administrative Rules. The sworn statement must be on personal knowledge and state fully the matter to be subject to consideration.

c. On receipt of a Councilmember's sworn statement seeking counseling of another Councilmember for alleged violation(s), the Chairperson of the Council Administration Committee will:

i. Review the sworn statement as to proper form, determining whether the allegation(s) fall under the scope of the Council Administration Committee as defined through this Rule, and if proper:

ii. Provide a copy of the sworn statement to the named Councilmember with a request to provide the Chairperson of the Council Administration Committee within fourteen (14) days receipt of the request with a written, sworn response to the allegation(s).

d. On receipt of the Councilmember's sworn response, the Chairperson shall determine whether to send the request to the Council Administration Committee for an investigation as set forth below, to have informal discussion with the Councilmember with one other member of the Administration Committee present, or to take no action. The Chairperson shall be required to decide upon a course of action not more than 10 days from the date of receipt of the Councilmember's sworn response to the allegation(s).

If the Chairperson decides to take no action, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

If the Chairperson decides to have informal counseling, the Chairperson will notify the Council Administration Committee of the allegation and the reasons for that decision as well as the Councilmember involved in the matter.

e. If the request is sent forward to the Council Administration Committee, the Council Administrative Committee shall set a date for the hearing not more than 28 days from the date of the Chairperson's notice to the Council Administrative Committee. Notice of the hearing shall be given to the Councilmembers involved by personal service or by email service. Notice shall be given not less than 10 days prior to the hearing date. The accused Councilmember named in the allegation shall attend the hearing and have the right to present a defense. Hearings shall be informal. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the Chairperson of the Council Administrative Committee. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

f. After the hearing, the Council Administration Committee shall by written motion make a determination whether the allegations warrant, by a preponderance of the evidence, a determination that the Councilmember should be counseled by the Council Administration Committee. The determination shall be adopted by not less than a majority of the members appointed to and serving on the Council Administration Committee.

g. If such a motion is approved, the Chairperson of the Council Administrative Committee shall inform City Council of the determination.

h. If a Councilmember does not appear at a set time for counseling, then the Council Administration Committee shall inform City Council of that fact.

i. If a Councilmember seeks to appeal this determination by the Council Administrative Committee, the Councilmember shall file a written request for appeal with the City Clerk. The Council shall review the sworn statement and a transcript of the hearing held by the Council Administrative Committee. The Council by written motion shall make a determination whether, based on a preponderance of the evidence, the Councilmember should be counseled by the Council Administration Committee. If the determination is that counseling should proceed, and the Councilmember does not appear at a set time for counseling, such an action would warrant Reprimand as set forth below.

j. If any matter is presented to Chairperson or later review by the Council Administrative Committee which is determined to be outside of the scope of the Council Administrative Committee, it shall refer the matter to the appropriate Council or other governmental body.

4. Requests for Reprimand of a Councilmember

a. The Council Administrative Committee shall act as investigative staff for the City Council in any allegation of act(s) by a Councilmember which may be grounds for reprimand of that Councilmember.

b. Any Councilmember may file a written, sworn and signed complaint with the Chair of the Council Administrative Committee alleging a violation of law, ordinance, Council Ethics Rules or Council Administrative Rules on his or her personal knowledge which allegation(s) may be grounds for reprimand of the named Councilmember. The statement must state fully the matter to be subject to consideration.

c. On receipt of a Councilmember's sworn complaint, the Chairperson of the Council Administrative Committee shall:

i. Review the sworn complaint as to proper form, determining whether the complaint alleged falls under the scope of Council as defined by statute, Charter, and through this Ordinance, as is proper,

ii. Inform Council and the named Councilmember of receipt of the Complaint and

A. Request the City Attorney or other Administrative personnel to assist in the investigation of the complaint and report all findings back to the Chair of the Council Administrative Committee for further review by the Council Administrative Committee; or

B. Schedule the complaint for further review and consideration by the Council Administrative Committee

d. On completion of investigation and review of the Complaint by the Council Administrative Committee, it shall make a written report and recommendation to City Council that the matter should be:

i.. Dismissed as without merit, or

ii. Scheduled for a hearing before Council, or

iii. Referred for other action to the appropriate governmental or law enforcement agency.

e. On receipt of the recommendation of the Council Administrative Committee, Council shall, at a regular or special meeting of the public body, act on the recommendations made, which decision shall be adopted by not less than 7 votes.

f. If a hearing on the Complaint is determined appropriate by Council, the Council shall set a date for the hearing not more than 30 days from the date of the Council meeting at which the determination was made. Notice of the hearing shall be given to the Councilmembers involved by personal service or certified mail return receipt requested. Notice shall be given not less than 14 days prior to the hearing date. The Councilmember named in the allegation shall attend the hearing and have the right to present a defense.

i. The accused Councilmember shall have the right and opportunity to make an opening and closing statement. If any of the alleged conduct occurred outside the Council's proceedings, the Councilmember accused may present witnesses at the hearing and question his or her accusers and any other witnesses that are presented. If the alleged conduct occurred within the Council's proceedings, then witnesses are not necessary. However, in either case, evidence may be presented and responded to.

ii. The Councilmember accused may be represented by an attorney and may have the representative speak or question witnesses. The City Attorney or outside counsel will provide legal advice to the City Council during the hearing.

iii. The hearing shall be informal. Judicial rules of evidence do not apply at the hearing, which is not a formal adversarial proceeding. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the Hearing officer that Council may from time to time appoint as provided in this section. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).

g. The Mayor shall preside over the hearing. If the hearing involves the Mayor, the Mayor pro tem shall preside over the hearing unless another Councilmember is appointed by Council. The Chairperson of the Council Administrative Committee (or another person or member of the Administrative Committee designated by the Administrative Committee) shall present evidence to the Council and call witnesses, if necessary.

h. After the hearing, the Council shall bring the request to reprimand a Councilmember by a Resolution outlining the specific charges. A Resolution to reprimand a Councilmember must be approved by at least seven Councilmembers and they must use a preponderance of the evidence standard.

Source: Section 4.4(e) Ann Arbor City Charter

Appendix – Charter Provisions

Section 4.1. The Council

- (a) The Council shall be composed of the Mayor and ten Council Members.
- (b) Subject only to limitations and exceptions provided by this charter or other provisions of law, all powers of the City shall be vested in and exercised by the Council.
- (c) The Council shall be the judge of the eligibility, election, and qualification of its members.

Section 4.2. The Mayor

In addition to any powers and duties otherwise provided by law, the Mayor shall:

- (1) be the presiding officer of the Council;
- (2) have all the powers and duties of a Council Member, including the power and the duty to vote;
- (3) have the veto powers as provided in Section 4.5 of this charter;
- (4) give the Council information concerning the affairs of the City and recommend such measures as deemed expedient;
- (5) in emergencies, have the powers conferred by law upon sheriffs to prevent disorder, preserve the public peace and health, and provide for the safety of persons and property;
- (6) execute or authenticate by signature such instruments as the Council, this charter, or any state or federal law shall require;
- (7) be the ceremonial head of the City;
- (8) appoint all Council Committees and be a member thereof and make other appointments as provided in this charter or by the Council.

Section 4.3. The Mayor Pro Tem

- (a) At its first meeting after the newly elected members have taken office following each regular city election, the Council shall elect one of its members Mayor Pro Tem for a term expiring at the first Council meeting following the next regular city election. The election of the Mayor Pro Tem shall be by the concurring vote of at least six members of the Council.
- (b) The Mayor Pro Tem shall perform the duties and have the powers of the Mayor when, on account of a vacancy in the office, absence from the City, disability, or for any other reason, the Mayor is unable to perform the duties of office. If both the Mayor and Mayor Pro Tem are temporarily unable to perform the duties of the office of Mayor, the Council shall designate another of its members as Acting Mayor to perform such duties temporarily.
- (c) When acting as Mayor, the Mayor Pro Tem or the Acting Mayor shall vote as a Council Member, and shall not possess the veto power.

Section 4.4. Meetings of the Council

- (a) The Council shall fix the time and place of its regular meetings and shall hold at least two regular meetings in each month. If any day prescribed for a regular meeting of the Council is a holiday, such regular meeting shall be held at the same time and place on the next secular day, except that when such holiday is an election day, the meeting shall be held on the following Thursday.
- (b) Special meetings of the Council shall be held at the regular meeting place thereof and shall be called by the Clerk on written request of the Mayor or any three members of the Council. Written notice stating the time and purpose of a special meeting shall be delivered to each member of the Council or left at the member's usual place of residence at least three hours prior to the time set for the meeting. The Clerk shall record a certificate of service of notice in

the journal of such meeting. A special meeting may be held notwithstanding lack of notice if all members are present, or if a quorum is present and each absent member has filed with the Clerk a written waiver of notice. A vote taken by the Council at a prior meeting shall not be reconsidered at a special meeting, unless as many members are present as were present when the original vote was taken. Except by unanimous consent of all members of the Council, a matter shall not be acted upon at any special meeting unless it has been included in the notice of the meeting.

- (c) All meetings of the Council shall be open to the public and the rules of the Council shall provide that persons shall have a reasonable opportunity to be heard. The public shall have access to the minutes and records of all meetings. Within ten days after any meeting, all proceedings shall be printed in such form as shall be prescribed by rule of the Council.
- (d) Six members of the Council shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn to a later time.
- (e) The Council shall determine its own rules and order of business. It shall keep a journal, in the English language, of its proceedings. The Clerk shall sign the journal after approval by the Council.
- (f) Except as otherwise provided in this charter, each member of the Council present shall cast a "yes" or "no" vote on each question before the Council, unless excused therefrom by a vote of at least six members.
- (g) The affirmative vote of at least six members of the Council, or of such greater number as may be required by this charter, or other provisions of law, shall be required for the adoption or passage of any resolution or ordinance, or the taking of any official Council action. No office may be created or abolished, nor any street, alley, or public ground vacated, nor private property taken for public use, unless by a concurring vote of at least eight members of the Council.
- (h) The Council may compel the attendance of its members and other officers of the City at its meetings, may take disciplinary action for non-attendance as prescribed by ordinance or by Council rules, and may prescribe, by ordinance, the punishment for any misbehavior or the contemptuous or disorderly conduct of any member or any person present at any meeting of the Council.
- (i) A member of the Council shall not vote on a question in which the member has a financial interest, other than the general public interest, or on any question involving the member's own conduct. If a question is raised under this section at any Council meeting concerning the eligibility of a member of the council to vote on any matter, such question shall be finally determined by the concurring vote of at least six members of the Council, not including such member.

Section 4.5. Veto Power of Mayor

- (a) Within seventy-two hours, exclusive of Sundays and holidays, after a meeting of the Council, the Clerk shall present the record of the meeting to the Mayor for approval. Except in cases of appointment or removal of officers by the Council, the Mayor may disapprove, in whole or in part, any action taken by the Council by resolution, order, or otherwise. The Mayor shall file the disapproval and reasons therefor, in writing, with the Clerk within seventy-two hours, exclusive of Sundays and holidays, following presentation of the record to the Mayor. Such disapproval shall be reported by the Clerk at the next regular meeting of the Council or at a special meeting called for consideration thereof. Council action disapproved by the Mayor shall be of no effect, unless re-affirmed by the concurring vote of at least eight members of the Council within thirty days from the time such disapproval is reported by the Clerk.

- (b) Within seventy-two hours, exclusive of Sundays and holidays, after the adoption of an ordinance, the Clerk shall present it to the Mayor. The Mayor may approve or disapprove. If the Mayor disapproves, the Mayor shall return the ordinance to the Clerk with the objections thereto in writing. The Clerk shall lay the ordinance and the objections of the Mayor before the Council at its next regular meeting or at a special meeting called for consideration thereof. If, within thirty days thereafter, at least eight members of the Council vote to readopt the ordinance, it shall become effective without the approval of the Mayor. If the Mayor fails to act within ten days after an ordinance is presented, it shall be deemed to have been approved. The Clerk shall certify on each ordinance and also in the journal the actions taken under this section and the dates thereof.

Section 7.1. Legislative Power

The legislative power of the City is vested exclusively in the Council, except as otherwise provided by this charter or by law.

Section 7.3. Introduction, Consideration, and Style of Ordinances

- (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, "The City of Ann Arbor Ordains:".
- (b) Each proposed ordinance shall receive two readings, which may be by title only, unless ordered by the Council to be read in full or in part. After the first reading of a proposed ordinance, the Council shall determine whether it shall be advanced to a second reading. The second reading shall not be given earlier than the next regular Council meeting.
- (c) Each proposed ordinance advanced to a second reading shall be printed and distributed to each member of the Council at least twenty-four hours before the meeting at which it is to be presented for a second reading.
- (d) A zoning ordinance or an amendment or revision thereof shall be published in one or more newspapers of general circulation in the City, and opportunity for a public hearing allowed thereon before final action is taken by the Council.
- (e) Each ordinance adopted by the Council shall be identified by a number.
- (f) An ordinance may be repealed, revised, altered, or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number and title only.
- (g) If a section of an ordinance is amended or revised it shall be reenacted and published at length.
- (h) Each ordinance shall be recorded by the Clerk, forthwith, in the "Record of Ordinances", and the enactment of such ordinance shall be certified by the Clerk therein.

Section 7.4. Publications of Ordinances

- (a) Each ordinance shall be published within ten days after its enactment in one of the following two methods:
 - (1) The full text thereof may be published in a newspaper of general circulation in the City of Ann Arbor, or
 - (2) In cases of ordinances over five hundred words in length, a digest, summary or statement of the purpose of the ordinance, approved by the Council, may be published in a newspaper of general circulation in the City of Ann Arbor, including with such newspaper publication, a notice that printed copies of the full text of the ordinance are available for inspection by, and distribution to, the public, at the office of the City Clerk. If Method (2) is used, then printed copies shall promptly be so made available, as stated in such notice.

The effective date of an ordinance shall be stated therein, but shall not be less than ten days from the date of its publication if such ordinance imposes a penalty. (Amended 5-22-56).

- (b) In the event of the codification or compilation of the ordinances, the deposit of two hundred printed copies in the office of the Clerk, available for public inspection and sale at cost, shall constitute publication thereof.

Section 7.5. Penalties

The Council may provide in any ordinance adopted by it for punishment of violations thereof by a fine not to exceed five hundred dollars or imprisonment for not more than ninety days, or both, in the discretion of the court. Imprisonment for violations of ordinances may be in the City or the County jail, or in any work house of the State which is authorized by law to receive prisoners of the City.

Section 7.8. Technical Codes

The Council may adopt by ordinance, any provision of state law or any detailed technical code or set of regulations promulgated by the State, or by a department, board, or agency thereof, or by any organization or association organized and conducted for the purpose of developing any such code or set of regulations, by reference thereto in the adopting ordinance and without publishing the technical code or set of regulations in full. The code or set of regulations shall be fully identified in the ordinance, and a statement of the purpose of the code or set of regulations shall be published with the adopting ordinance. Such publication shall contain notice that a copy of the code or set of regulations is available for public inspection in the office of the Clerk. Printed copies of the code or set of regulations shall be kept in the office of the Clerk, available for public distribution at cost.

Section 8.6. Adoption of Budget

Not later than its second meeting in May, the Council shall, by resolution concurred in by at least seven members, adopt the budget for the next fiscal year. The Council shall, in such resolution, make an appropriation of the money needed for municipal purposes during the next fiscal year. The Council shall, in such resolution, make an appropriation of the money needed for municipal purposes during the next fiscal year and determine the amount necessary to be raised by taxes upon real and personal property for such purposes.

Section 8.9. Effects of Adoption of Budget

- (a) Upon the adoption of any budget, the several amounts stated therein as proposed expenditures shall be appropriated to the respective objects and purposes named therein.
- (b) A copy of the budget so adopted, certified by the Clerk, shall be filed in the office of the Controller. A copy of the budget as adopted, or of appropriate portions thereof, shall be furnished by the Clerk to the head of each administrative unit and, upon request, shall be furnished at cost to interested persons and civic organizations.

Section 8.10. Transfer of Appropriations

After the budget has been adopted, no money shall be drawn from the treasury nor shall any obligation for the expenditure of money be incurred for payment during the fiscal year to which the budget applies, except pursuant to an appropriation therefor. The Council may, however, transfer any unencumbered operating appropriation balance, or any portion thereof, from one operating fund or account to another, upon the concurring vote of not less than eight members of the Council. Council shall determine the disposition of any unencumbered balance remaining in any budget appropriation at the end of the fiscal year.

Section 8.11. Budget Control

- (a) If, when the City Administrator submits to the Council data showing the financial position of the City, it appears that the income of the City is less than anticipated, the Council may, except as to amounts required for debt and interest charges, revise or amend the budget as may be necessary to keep expenditures within the income of the City, after a public hearing thereon which shall be held and notice thereof given as required by this charter before the adoption of the budget.

Section 8.12. Contractual Claims against City

- (a) All contractual claims against the City shall be filed with the Clerk, who shall transmit them to the Controller.
- (b) The Controller shall verify the correctness of each claim and, subject to further procedure established by the Council for auditing and approving claims, shall approve for payment each claim so verified, if a sufficient appropriation is available for the purpose, and shall draw and sign a check or warrant therefor. A certificate of the Controller's approval shall be filed with the Treasurer before the Treasurer countersigns any check on the funds of the City therefor. Any officer who signs or countersigns a check on any funds of the City, except as herein provided, shall be deemed guilty of a violation of this charter.

Section 8.13. Notice to City of Claim for Injuries

The City shall not be liable in damages for injury to person or property by reason of negligence of the City, its officers, or employees, or by reason of any defective highway, public work, public service improvement, or facility of the City's or by reason of any obstruction, ice, snow, or other encumbrance thereon, unless, within sixty days after such injury occurred, the person damaged or that person's representative causes to be served upon the Clerk a written notice, stating that such person intends to hold the City liable for such damages. Such notice shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. No person shall bring action against the City for damages to person or property arising out of any of the reasons or circumstances aforesaid, unless brought within the period prescribed by law, nor unless the person has first presented to the Clerk a claim in writing and under oath, setting forth specifically the nature and presented to the Council for action. It shall be a sufficient bar to any action upon any such claim that the notice of injury and the verified proof of claim required by this section were not filed within the time and in the manner herein provided.

Section 8.14. Withdrawal of City Funds

All funds of the City drawn from the treasury shall be drawn pursuant to an appropriation by the Council and by checks signed by the Controller and countersigned by the Treasurer. Each check shall specify the fund or funds from which it is payable.

Section 8.17. Municipal Borrowing

- (a) The Council, subject to the applicable provisions of law and this charter, may, by proper ordinance or resolution, authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created thereby.
- (b) The Council, subject to the applicable provisions of law and this charter, may authorize the borrowing of money in anticipation of the payment of special assessments made for the

purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and the issuing of bonds therefor. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose.

- (c) The Council may, subject to law and the State Constitution, authorize the issuance and sale of mortgage bonds for the purpose of acquiring, owning, purchasing, constructing, or operating any public utility beyond the general limit of bonded indebtedness prescribed by law: Provided that such mortgage bonds, issued beyond the general limit of bonded indebtedness prescribed by law, shall not impose any liability on the City but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility, which franchise shall in no case extend for a long period than twenty years from the date of sale of such public utility and franchise on foreclosure. In the event of the issuance of such bonds, there shall be created, in such cases as may be required by law, a sinking fund by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.
- (d) In case of fire, flood, or other calamity, the Council may, subject to law, authorize the issuance of emergency bonds, which shall be general obligations of the City for the relief of the inhabitants of the City and for the preservation of municipal property.
- (e) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and, if any such bonds are not sold within three years after authorization, such authorization shall be null and void.
- (f) Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and no officer of the City shall use the proceeds thereof for any other purpose, except as hereinafter provided.
- (g) Whenever the proceeds of any bond issue, or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the affirmative vote of a majority of the members elect, authorize the use of such unexpended and unencumbered funds in any manner permitted by law or for the retirement of such bond issue, or, if such bond issue shall have been fully retired or if any of such funds remain after such retirement, then for the retirement of other bonds or obligations of the City.
- (h) All bonds and other evidences of indebtedness by the City shall be executed with the facsimile signature of the Mayor and signed by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signature of the Mayor and Clerk. (Amended April 1, 1968)
- (i) A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Controller. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Canceled."
- (j) A violation of any of the provisions of this section shall constitute a violation of this charter.

Section 10.1. General Powers Relative to Special Assessments

The Council may determine the necessity for any public improvement, and determine that the whole or any part of the cost thereof shall be defrayed by special assessment upon the property especially benefited. The Council may authorize public improvements other than those for which petitions have

been filed, whether the cost thereof is to be defrayed from the general funds of the City or by special assessments upon the property especially benefited.

Section 14.1. Authority of Council

- (a) The authority to authorize the making of contracts on behalf of the City is vested in the Council and, except as otherwise provided by this charter, shall be exercised in accordance with the provisions of law and this chapter.
- (b) All contracts, except as otherwise provided in this charter or by ordinance of the Council in accordance with the provisions of Section 14.2 of this charter, shall be approved by the Council and shall be signed on behalf of the City by the Mayor and Clerk.