

Hamtramck, MI Code of Ordinances

CHAPTER 39: ETHICS

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§ 39.001 TITLE.

This chapter shall be known as the Ethics Chapter of the city.

(Ord. 2008-11, passed 8-26-2008)

§ 39.002 INTENT AND PURPOSE.

(A) It is the policy of the city to uphold, promote and demand the highest standards of ethics from all its employees and officials, whether elected, appointed or hired. City officers and employees (public servants) shall maintain the highest standards of personal integrity, truthfulness, honesty and fairness in

carrying out their public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their city position or powers for improper personal gain.

(B) It is further the intent of this chapter that a public servant, regardless of whether specifically prohibited by this chapter, shall avoid any action, which might result in or create the appearance of:

- (1) Using public office or employment for private gain personal or monetary;
- (2) Giving improper preferential treatment to any person or organization;
- (3) Impeding government efficiency or economy;
- (4) A lack of independence or impartiality of action;
- (5) Making a government decision outside of official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the city.

(C) It is not the intent of this chapter to in any way limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as the action does not provide a special benefit to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated city residents.

(Ord. 2008-11, passed 8-26-2008)

§ 39.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. A business entity includes any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

CITY. The City of Hamtramck, a Michigan municipal corporation.

COMPENSATION. Payment in any form for real or personal property or services of any kind.

ELECTED OFFICER. Any person who is elected at a general or special election to any public office of the city and any person appointed to fill a vacancy in any office.

INTEREST. Any right, title or share in something, either personal, financial, legal or equitable, which is owned, held or controlled, in whole or in part, directly or indirectly, by a public servant.

PUBLIC SERVANT. Every individual appointed, hired or otherwise selected to an office, position, committee, board, task force or similar multi-member body with the city, or any subdivision thereof, whether the individual is paid or unpaid and any person elected or appointed to any public body of the city. **PUBLIC SERVANT** includes elected officer.

PUBLIC BODY. The City Council, and any board, authority, commission, committee, department, office or other agency of the city, and including the city.

QUESTION THE EMPLOYMENT STATUS. Imply, infer, suggest or otherwise state that an employee should be dismissed from employment with the city.

(Ord. 2008-11, passed 8-26-2008)

§ 39.004 FAIR AND EQUAL TREATMENT.

No public servant shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All public servants shall treat all citizens of the city with courtesy, impartiality, fairness and equality under the law. In addition, no elected official may question the employment status of any employee under the control of the City Manager unless that employee's contract or appointment is before the City Council and a resolution approving the action has been moved and seconded.

(Ord. 2008-11, passed 8-26-2008) Penalty, see § 39.999

§ 39.005 PROHIBITED CONDUCT.

The following shall constitute violations of this chapter.

(A) *General prohibition against conflict of interest.* In order to avoid impropriety, or an appearance of conflict of interest, no current public servant should be involved in any activity that might be seen as conflicting with the conduct of official city business or as adverse to the interests of the city. Even the appearance of the following prohibited conduct alone may be sufficient to constitute a violation of this ethics chapter.

(B) *Disclosure of confidential information and/or benefitting from confidential information.* No public servant shall disclose or use any confidential, privileged or proprietary information gained by reason of his or her position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request. For purposes of this division, the term **CONFIDENTIAL INFORMATION** shall mean any information, oral or written, which comes to the attention of, or is available to, the public servants only because of his or her position with the city, and is not a matter of public record.

(C) *Improper use of city personnel and property.* No public servant shall employ or use any person under his or her official control or direction for the personal benefit, gain or profit of the public servant or other. No public servant shall use city-owned vehicles, equipment, materials, money or property for personal or private convenience or personal gain. Nothing herein shall prohibit the use of city equipment or motor vehicles by public servants in accordance with written policies established by the City Council, City Manager or city department head concerned, nor shall this chapter be deemed to prohibit private use of surplus city property legally disposed of by the city or its departments in compliance with established procedures.

(D) *Beneficial interest in business transaction or participation in a contract.* No public servant

shall participate or benefit from (monetarily or personally) in his or her capacity as a public servant in the making of a contract in which he or she has a financial interest, direct or indirect, or perform in regard to a contract some function which requires the exercise of discretion on behalf of the city. No public servant shall participate in contracts, loans, grants, rate-fixing or issuing permits involving a business in which he or she has a substantial interest; however this provision shall not apply in the following circumstances:

(1) Contracting with the city where:

(a) The contract is awarded pursuant to sealed bids;

(b) The public servant is not involved directly or indirectly or otherwise refrains from participation in the decision on the award of the contract; and

(c) The City Council, after reviewing the circumstances, determines the award of the contract would be in the best interest of the city.

(2) Where the interest of the public servant in the business involves the holding of less than 1% of the securities in a publicly traded business or less than 5% of privately or closely held business and where the public servant will not have any involvement in the transaction on behalf of the contracting business.

(E) *Engaging in certain private employment.* No city employee or public servant shall engage in or accept private employment or render services for, any private interest when the employment or service is incompatible with the proper discharge of official duties or would tend to impair independence or judgment or action in the performance of official duties.

(F) *Acceptance or solicitation of compensation, gifts, favors, rewards or gratuity.* No public servant may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the public servant's services with the city which would tend to influence the manner in which the public servant performs his or her official duties, except this prohibition shall not apply to:

(1) Attendance of a public servant at a hosted meal when provided in conjunction with a meeting directly related to the conduct of city business or where official attendance by the city official as a city representative is required or in the best interest of the city;

(2) An award publicly presented in recognition of public service presented to the public servant; and

(3) Any gift valued at \$100 or less, which cannot reasonably be presumed to influence the judgment of the public servant.

(G) *Improper use of position.* No public servant shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain or profits of any other persons. No public servant shall represent his or her individual opinions as those of the city.

(Ord. 2008-11, passed 8-26-2008) Penalty, see § 39.999

§ 39.006 MATTER REGARDING DISCLOSURE OF CONFLICTS OF INTEREST, ACTUAL AND POTENTIAL.

The following disclosure requirements are established to avoid both actual and potential conflict between the private self-interests and the public interest of public servants.

(A) *Self interest.* No public servant, either on his or her behalf or on behalf of any other person, shall have an interest in any business transaction with any public body of the city, unless the person shall first make full public disclosure of the nature of the interest.

(B) *Disclosure and disqualification.* Whenever the performance of official duties shall require a public servant to deliberate and vote on any matter involving his or her financial or personal interest, that person shall publicly disclose the nature and extent of the interest and is disqualified from participating in the deliberations and voting on the matter.

(C) *Dual employment.* No public servant shall engage in employment with, or render services for, any person or entity, which has business transactions with any public body of the city, without first making full public disclosure of the nature and extent of the employment or services.

(D) *Dual representation.* A public servant shall make full public disclosure of business involving the city when attempting to use his or her official position to secure special privileges or exemptions for self or others.

(Ord. 2008-11, passed 8-26-2008) Penalty, see § 39.999

§ 39.007 PUBLIC DISCLOSURE, CONTENTS.

Whenever a public disclosure is required by this chapter, it may be made orally on the record at a meeting of the public body involved, or in a writing filed with the Clerk, in both of which cases it shall be made a part of the record of a regular City Council meeting, and in either event shall include:

(A) The identity of all persons involved in the interest; and

(B) The source and amount of income derived from the interest that may be considered as resulting from employment, investment or gift. The person required to file a disclosure statement in accordance with the provisions of this chapter must verify, in writing, under penalty of perjury, the information in the statement is true and complete as far as he or she knows.

(Ord. 2008-11, passed 8-26-2008) Penalty, see § 39.999

§ 39.008 DISCLOSURE OF CAMPAIGN CONTRIBUTIONS.

(A) Within 15 days after each municipal election, every elected officer, and candidate for elected office, shall file a completed disclosure form with the City Clerk. All elected officers of the city shall file, annually within ten days of the filing deadline established by the state, a report with the City Clerk listing all contributions, other receipts or in-kind contributions received in any calendar year by the

officer's candidate committee. If the candidate or elected officers or candidate for office has not received any contributions, other receipts or in-kind contribution for the period covered under any period in which a report is required by this chapter, the candidate or elected officer shall file a sworn, notarized statement within ten days of the filing deadline established by the state, in a form determined by the Clerk, reflecting this fact. The Clerk shall make all candidates for elected office in the city aware of this provision at the time they file for candidacy. All elected officers of the city shall be made aware of this provision within five days of assuming their respective office. The form for reporting contributions shall consist of the forms developed by the State Secretary of State for reporting campaign contributions or their successors. At the time of adoption of this chapter, those forms are:

- (1) Candidate Itemized Contributions Schedule 1A;
- (2) Candidate Other Receipts Schedule 1A-1; and
- (3) Candidate In-Kind Contributions Schedule 1-IK.

(B) Failure to comply with this section of the chapter may result in a penalty established by City Council resolution.

(Ord. 2008-11, passed 8-26-2008; Am. Ord. 2009-1, passed 3-24-2009) Penalty, see § 39.999

§ 39.009 DUTIES OF CLERK.

The Clerk shall examine all disclosure statements filed pursuant to this chapter and report irregularities immediately to the person filing the statement to the City Manager and the City Attorney. Acceptance of a statement by the Clerk shall not constitute approval of the statement. The Clerk shall maintain a current list of all disclosure statements required to be available for public disclosure. The Clerk shall preserve all disclosure statements for a period of at least three years after the date on which they are filed. The Clerk shall make available to the public all statements that are required to be available for inspection during regular business hours. The Clerk shall also accept all complaint alleging violations of this chapter.

(Ord. 2008-11, passed 8-26-2008)

§ 39.010 REQUEST FOR OPINION FROM THE CITY ATTORNEY.

(A) Any elected official may request the City Attorney provide an advisory opinion interpreting the effect or application of this chapter generally, or on questions directly relating to the propriety of their conduct in a particular situation.

(B) Any other public servant may request, with the approval of the City Manager, that the City Attorney provide an advisory opinion interpreting the effect or application of this chapter generally, or on questions directly relating to the propriety of their conduct in a particular situation.

(Ord. 2008-11, passed 8-26-2008)

§ 39.011 DELIVERY OF COPIES OF ETHICS CODE TO PUBLIC SERVANTS.

The Clerk shall deliver a copy of this chapter to each public servant as soon as practicable after the enactment of this chapter, and to each new public servant at the time of employment or taking office. The Clerk shall also request that each person sign and return an acknowledgment of receipt of a copy of this chapter.

(Ord. 2008-11, passed 8-26-2008)

§ 39.012 COMPLAINT PROCEDURE.

(A) Any citizen of the city may submit a complaint in writing and under oath, alleging that one or more public servants have violated or may have violated any provision of this chapter within one month of the alleged violation.

(B) The complaint must be signed by the complainant and notarized, and must contain the following:

- (1) The complainant's legal name and current mailing address;
- (2) The name or names of any public servants who committed or may have committed the alleged violation;
- (3) A summary of the facts giving rise to the complaint;
- (4) Some explanation of why those facts constitute or may constitute a violation of the ethics chapter; and
- (5) Any one filing a false complaint will be subject to the penalty(s) for perjury.

(C) The complaints must be filed with the City Clerk. Upon receipt, the Clerk shall promptly provide a copy of the complaint to the public servant named therein and to the City Attorney.

(D) The City Attorney will evaluate the complaint, applying the law of the standards of conduct to the facts alleged in the complaint.

(E) Within 14 days from receipt of the complaint, the City Attorney shall:

- (1) Issue a report including a copy of the complaint, concluding whether facts alleged in the complaint, if true, would rise to a violation of this chapter, and require the public servant named in the complaint issue a formal statement, in writing and addressed to the City Attorney, outlining his or her position.
- (2) The City Attorney shall determine whether the public servant named in the complaint did commit a violation of the ethics chapter and file a formal complaint with the Thirty-First District Court; or
- (3) Dismiss the complaint.

(F) The City Attorney shall promptly provide a formal complaint or a dismissal of the complaint to the appropriate city department.

(G) If a complaint is filed against the City Attorney and any of his or her designees, the City Council shall designate a neutral body to investigate the complaint and if necessary prosecute the violation.

(Ord. 2008-11, passed 8-26-2008) Penalty, see § 39.999

§ 39.013 WHERE TO SEEK REVIEW.

(A) *Civil penalty.* If ordered to pay a civil penalty, an appeal may be taken in the form of a trial de novo in the District Court, which shall hear the case in accordance with the Civil Rules for Courts of Limited Jurisdiction (CRLJ) and applicable local rules of the District Court. This appeal may be taken by filing in the District Court, a notice of appeal within 14 days of the date of the final written order. The person filing the appeal shall also, within 14 days, serve a copy of the notice of appeal on the person who issued the final written order and/or the City Attorney, or his or her designee, and file acknowledgment or affidavit of service in the District Court.

(B) *Discipline or removal.* If a public servant is disciplined or removed from office, then the person disciplined or removed from office may seek whatever remedies exist at law or equity.

(C) *Termination of contracts.* If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.

(Ord. 2008-11, passed 8-26-2008)

§ 39.999 PENALTY.

(A) Upon a finding of a violation of any provision of this chapter, the City Attorney is empowered to take any one or more of the following actions:

(1) Discipline up to and including termination or removal from any position whether paid or unpaid, excluding elected positions, only after notice and hearing as provided by law; and/or

(2) Termination or invalidation of contract(s) entered into in violation of this chapter.

(B) Upon a finding of a violation of the applicable provisions of this chapter, the District Court is empowered to assess the following penalties:

(1) Any public servant who violated a provision of this chapter may be subject to fine of up to \$500 for each violation;

(2) Any public servant who fails to make any disclosure required by § 39.008 may be fined \$10 per day, up to a maximum of \$500, from the first day the disclosure is due until the disclosure is filed; and

(3) Any public servant who is found to have violated a provision(s) of this chapter shall be deemed guilty of misconduct.

(C) The various penalties provided under this division are cumulative to other remedies provided

under state law or under the Charter and ordinances of the city.

(Ord. 2008-11, passed 8-26-2008)

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