

## CHAPTER 36: ETHICAL CONDUCT

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### § 36.01 ETHICAL CONDUCT.

(A) The citizens of the city are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity.

(B) Furthermore, the effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; public officials be independent, impartial and fair in their judgment and actions; public office be used for the public good, not for personal gain; and public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

(C) To this end, the City Council adopts this chapter to assure public confidence in the integrity of local government and its effective and fair operation. Serving in local government is the holding of public trust. This trust should never be undermined.

(D) In all actions, employees, the City Manager, and City Council members will adhere to all local, state and federal laws regulating ethical action. Various professional codes of ethics and other similar documents may be used to supplement determinations of ethical conduct.

(Ord. 793 of 2018, passed 6-18-2018)

### § 36.02 CONFLICTS OF INTEREST.

(A) *Occurrence of; public presentation.* Conflicts of interest will naturally occur from time to time and in such cases when they may or do in fact arise, should be presented publicly to diminish the potential of actual or perceived special interests.

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

**BOARDS, COMMISSIONS, COMMITTEES.** Shall refer to those boards, committees, commissions, or other bodies created by statute, local ordinance, resolution, local policy and any and all subcommittees those bodies may, from time to time, create.

**CITY COUNCIL.** Except where specifically referred to, shall refer to the Mayor and each member of the City Council.

**CONFLICT OF INTEREST.** May occur when action by the city, either through its employees, its boards, committees, commissions or other such bodies, or the City Council, could be construed as impacting negatively or positively an interest of an employee or Council Member, his or her relatives, business or financial investments, property, or other interests.

**IMMEDIATE FAMILY.** The spouse, child, parents, brother, sister, half- sister, half-brother or the spouses of any listed relatives. All relationships shall include those arising from adoption and marriage.

(C) *City Council reporting of conflicts of interest.*

(1) If a case may arise when a Council Member or the Mayor has a conflict of interest, he or she shall make known the potential conflict in open session when City Council business might involve such interest. The Council Member or Mayor need not provide detail on the potential conflict so as to injure a client or patient relationship.

(2) In addition to the general rule on conflicts of interest above, the following specific conflicts of interest are specifically prohibited:

(a) *Holding of other offices.* No Council Member shall hold any other city office or employment during the term for which they were elected to the Council except where specifically allowed by the Charter and/or statute.

(b) *Voting involving a conflict of interest.* No member of the Council shall vote on any question in which he, she or a member of their immediate family as defined in this chapter, has a financial interest, other than the common public interest, or on any question concerning his or her own conduct. Council Members who may have a financial interest shall state such interest and then refrain from debating, commenting, or otherwise seeking to influence the Council on such question.

(c) If a member of City Council believes that another member of City Council has a conflict, he or she shall raise such perceived conflict. If the member in question does not concede a conflict, the majority of the remaining Council Members may vote to prohibit that Council Member or the Mayor who may have a conflict from participating in that item of business. The Council shall solely be the judge of its own members and the Mayor.

(D) *Board, Committee, Commission Conflicts of interest.*

(1) If a case may arise when a member of a board, committee, or commission has a conflict of interest, he or she shall make known the potential conflict in open session when the body might conduct business involving such interest. The member need not provide detail on the potential conflict so as to injure a client or patient relationship.

(2) In addition to the general rule on conflicts of interest above, the following specific conflicts of interest are specifically prohibited:

(a) *Voting involving a conflict of interest.* No member of the body shall vote on any question in which he, she or a member of their immediate family as defined in this chapter, has a financial interest, other than the common public interest, or on any question concerning his or her own conduct. Members who may have a financial interest shall state such interest and then refrain from debating, commenting, or otherwise seeking to influence the Council on such question.

(b) If a member believes that another member has a conflict, he or she shall raise such perceived conflict. If the member in question does not concede a conflict, the majority of the remaining body members may vote to prohibit that member who may have a conflict from participating in that item of business.

(E) *City Manager reporting of conflicts of interest.*

(1) If a case may arise when the City Manager has a conflict of interest, he or she shall make written notification of such conflict to the Mayor and the City Clerk. To the extent possible, the City Manager's involvement in the situation will be minimized to avoid the appearance of impropriety. The City Manager's conduct shall at all times be in accord with the ICMA Code of Ethics.

(2) It shall not be deemed a conflict of interest by the City Manager to enforce or cause to be enforced zoning or ordinance violations in keeping with standard practice. It shall also not be deemed a conflict of interest for action to be taken by the city to improve or otherwise conduct normal public activities in the neighborhood where the City Manager may reside.

(F) *Employee reporting of conflicts of interest.* If a case may arise when an employee of the city or the city's Attorney, Auditor, or other professional contractor may have a conflict of interest, he, she, or the corporation, partnership or entity shall promptly report such conflict or potential conflict to the City Manager. The City Manager shall determine what steps if any may be necessary to avoid the potential for preferential or adverse action because of the conflict.

(G) *Council appearance before other bodies.* City Council shall not appear before or seek to influence members of other Boards, Commissions, or Committees except when they may be appointed to such body, serve as a member by virtue of statute or Charter, or may be invited to address the body by a majority vote of the body.

(H) *General prohibition.* The City Council, board, committee, and commission members, the City Manager, and city employees should not take any special advantage of services, goods or opportunity for personal gain that is not available to the public in general.

(Ord. 793 of 2018, passed 6-18-2018)

### **§ 36.03 STATUTORY PROHIBITIONS.**

In accord with Public Act 196 of 1973 (being M.C.L.A. §§ 15.342 et seq.) the following shall apply to members of the City Council, the City Manager, and all other employees of the city.

(A) *Confidential information.* The City Council, the City Manager, or an employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.

(B) *Personal opinions.* The City Council, the City Manager, or an employee shall not represent his or her personal opinion as that of the city.

(C) *Use of city resources.* The City Council, the City Manager, or an employee shall use city personnel resources, property, and funds judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(D) *Acceptance of gifts.* The City Council, the City Manager, or an employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.

(E) *Use of office for private gain.* The City Council, the City Manager or an employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the person has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this division 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 state.

(F) *Outside employment.* The City Council, the City Manager, or an 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 officer 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.

(G) *Negotiation for private gain.* Except in cases of an employment agreement or contract, the City Council, the City Manager, or an employee 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 a business entity in which the person has a financial or personal interest.

(Ord. 793 of 2018, passed 6-18-2018)

### **§ 36.04 NON-DISCRIMINATION.**

The city will not discriminate against any person in the provision of public service or employment on the basis of gender, race, creed, age, sexual orientation, language proficiency, income level, or any other legally protected classification. Such non-discrimination provisions may be limited by state or federal law.

(Ord. 793 of 2018, passed 6-18-2018)

### **§ 36.05 PROMULGATION.**

(A) The City Manager is authorized to draft policies, procedures, and other documents necessary to enforce provisions of this chapter. To the extent deemed necessary, statements from this chapter may be appended to contracts with outside vendors and contractors. The City Manager may also revise the city's Personnel Policy as needed to reflect this chapter.

(B) Upon approval of this chapter and upon assuming office, the Mayor, Council Members, board, committee, and commission members, the City Manager and employees the City Manager may designate from time to time shall affirm their commitment to ethical conduct and this chapter by signing the form below:

As a \_\_\_\_\_ of the City of Charlevoix, I agree to uphold the Ethical Conduct Ordinance of the City of Charlevoix and conduct myself by the following model of excellence. I will:

- . Recognize the worth of all individuals and appreciate their individual talents, perspectives, and contributions;
- . Help create an atmosphere of respect and civility where individual members, city staff, and the public are free to express their ideas and work to their full potential;
- . Respect the dignity and privacy of individuals and organizations;
- . Respect and maintain the nature of confidential and privileged information and opinions acquired as a result of my position;
- . Conduct my public affairs with honesty, integrity, fairness and respect for others;
- . Avoid and discourage conduct that is divisive or harmful to the best interests of Charlevoix; and
- . Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.

I affirm that I have read and fully understand the Code of Ethics for the City of Charlevoix.

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 Signed                      Dated

(Ord. 793 of 2018, passed 6-18-2018)

**§ 36.99 PENALTY.**

(A) *Violations by Council Members and board, commission, and committee members.* Violation of any provision of by a member of the City Council or a board, commission, committee may be punishable by action of the City Council to censure, reprimand, or otherwise discipline its own members or those of a board. Additionally, violations may also be felonies or misdemeanors under state or federal law.

(B) *Violations by employees.* Violation of any provision may subject an employee to punishment up to and including termination. In addition to employment disciplinary action, the city may seek remedy in a court of competent jurisdiction for damages.

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