

AN ORDINANCE TO ESTABLISH ETHICAL STANDARDS OF CONDUCT FOR CITY OFFICERS AND EMPLOYEES AND ESTABLISH PENALTIES FOR VIOLATION

THE CITY OF YPSILANTI ORDAINS:

ETHICAL STANDARDS OF CONDUCT

DECLARATION OF PURPOSE; FINDINGS

The City hereby declares that elected public office and public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. It is the finding of Council that the people of the City want legislation to ensure that conflicts of interest of officers and employees are eliminated to the fullest extent possible and that violations of rules of ethical conduct are investigated and punished, where appropriate.

DEFINITIONS

As used in this ordinance, the following words and phrases shall have the following meanings:

agreement - an understanding between two or more persons or entities; a contract

appointed - selected and installed in an office or position

associated - the condition of being an owner, partner, member, part owner, employee, limited partner, stock holder, director, lender, borrower, or having a financial interest in

beneficiary - a person or entity receiving a benefit

benefit - advantage; any improvement in position, finances, power, or influence

bona fide union - a labor organization recognized as legally capable of representing members in employment matters with the City of Ypsilanti

business - commercial or industrial enterprise or establishment, enterprise, store etc.; work, employment, profession of an individual or group; commerce

candidate - someone who seeks or has been proposed for an office, position, or award

city employee - an employee of the City of Ypsilanti, Michigan

city funds - any funds, money, or monetary rights owned by the City, or under the control of the City of Ypsilanti in a fiduciary or representative capacity

city officer - an officer of the City of Ypsilanti; someone holding an official position of authority with the City of Ypsilanti; eg. the Clerk of the City of Ypsilanti, the Mayor, the Assessor, etc. City officer does not include a volunteer not appointed or elected to a city office.

city personnel - individuals working for the City of Ypsilanti as employees for wages, salary or other agreed benefits

city property - anything tangible or intangible, including **rights**, owned by the City of Ypsilanti, or under the control of the City of Ypsilanti in a fiduciary or representative capacity

city resources - see city property; and, working hours, labor of persons performing work for the City.

class of stock - a separate and distinct set of the shares of corporate capital or the certificates representing such shares, carrying rights distinguishable **from** other classes

collective bargaining - negotiation between organized workers and their employer concerning wages, hours, and working conditions

conflict of interest - an interest that competes with or is adverse to a legitimate interest of the City of Ypsilanti

consideration - something given or promised in exchange for something else, tangible or intangible, including promises

contracts - agreements or mutual understandings supported by present or future consideration

contribution - money or aid given to another

corporation - a formal legal entity chartered by a state or the federal government, formed by an individual or group of people or entities and having distinct legal existence, rights, and liabilities

council - city council

directly - straight, uninterrupted, immediately causing or leading to

director - one who supervises and directs the actions of others or an entity, department, division, or group

disposition - management of affairs; orderly arrangement of something

during the course of city business - while planning, working on, reporting on, or carrying out the affairs of the City of Ypsilanti

elected - chosen by vote of the eligible electors

election fraud - a crime consisting of an intentional act which violates the election laws of the state of michigan and which act is either designated as **fraud** by the relevant statute; or involves dishonesty, moral turpitude, the intentional misleading of a person or persons including the general public of a significant and material fact or facts, or is an intentional misuse or subversion of the election process

employee - a person working for another [the City of Ypsilanti] for wages, salary, or other benefits and under the control and supervision of the City as to hours, work standards, and rules of work etc.

employment - the condition of being employed; work.

exchange n. [as in stock exchange] - an officially recognized and regulated place with a mechanism and set of rules administered for the buying and selling of commodities or rights

exchange v. t. - to give in return

expectation - n. a looking forward to something; a looking for as due; a thing looked forward to; a reason for looking forward to something; a prospect

favor - n. unfair partiality; an obliging act; v.t. to be partial to; to support; advocate; to help; make easier

financial gain - increase in monetary or material wealth or earnings

forbearance - n. the act of forbearing - forbear - v. t. to **refrain from**; abstain; avoid doing

gain - an increase in power, advantage, wealth, possessions, earnings

gift - something given without recompense

immediate family - mother, father, brother, sister, spouse, child, child's spouse, brother-in-law and sister-in-law

incidental - secondary or minor, of little value

independent contractor - a person or entity doing work under agreement without the controls over the work and work progress by someone in the position of an employer; the independent contractor determines how and when the work is to be accomplished within the limits of the contract; someone who exercises a great deal of discretion in prosecuting the work; contrast an employee who is directed by the employer

indirectly - adv. not straight forward, not immediate; secondary

influence - the power of persons or things to affect others;

interfere - to come between for some purpose; meddle; attempt to determine course or outcome without authority or legitimate purpose

legal entity - a person or organization with legal standing, rights, and duties apart from anyone **else** or any other entity

limited liability company - a form of corporation created by state statutes - has certain aspects of partnership and different tax attributes **from** a regular corporation

loan - a transfer of money or an item with the expectation and agreement that the thing transferred will be returned, often with the agreement to pay for the use as well as return the original amount or thing.

lowest qualified bidder - person or entity submitting the lowest bid price to accomplish a job, while meeting the bid requirements for qualifying to submit bid proposals

member - **any** of the persons constituting an organization or group

minor -adj . lesser in size, importance, or amount

moral turpitude - **an** act of baseness, vileness or depravity; conduct contrary to honesty, justice or good morals

officer - a person holding an office, or position of authority, in the City government

official conduct - action or inaction by an officer or employee acting on behalf of the City

ordinary course of law enforcement - includes investigation of suspected wrongdoing

owner - **the** person with the **right** to dispose of something

part owner - **an** owner of a portion of something

partner - person or entity in same business enterprise with others that share benefits and risks

partnership - **an** organization of partners for the purpose of conducting an enterprise

party - a person or entity that is involved - in an agreement, enterprise, or endeavor

person - a legal entity; a human being

person sharing the same living quarters - a human being living with another under the same roof and using common living areas

personal gain - advantage or increase in wealth, possessions, power or other benefits for an individual

political parties - formal organizations supporting candidates for public office

potential conflict of interest - a situation whereby the interests of the City and the interests of someone else will, may, or might become in conflict in the ordinary course of events

promise - an agreement to do or not to do something

promise of future employment - an agreement concerning the future hiring or the abstention from firing someone

public entities - organizations sanctioned or created by government to serve the interests of the public

renegotiation - negotiation of new terms for an already agreed to deal

renewal - the extension, under (usually) similar terms and conditions of an agreement for another time period

represent - to speak and act for someone or some entity by conferred authority; to state as true

reward - something given for something done

rules of ethical conduct - the provisions of this ordinance

Significant other - a person living with the subject person under the same roof and using common living areas

solicit - to ask or seek; often earnestly; to entice another to do wrong

special - out of the ordinary

stock - ownership of a corporation; the certificates representing the ownership

stockholder - one who owns stock

transaction - n. a transacting or being transacted; v. something carried out, done, accomplished.

trust - a relationship established by giving a trustee nominal ownership of something with the understanding the trustee will administer that received for the benefit of another

trustee - a person or entity holding something in trust for another

unauthorized person - a person that is not empowered by law, or authorized by law to do a certain act or receive certain information.

unincorporated association - an organization of persons or entities not operating as a corporation

volunteer - someone who enters into any service of his own free will

I. CONFLICT OF INTEREST IN CONTRACTS WITH CITY AND OFFICERS AND EMPLOYEES

1. Conflict of interest prohibited. No city officer or employee of the City of Ypsilanti shall be a party, directly or indirectly, to any contract with the City, except as provided by this ordinance.

a. This section shall not prevent the renewal or renegotiation of an employment or independent contractor contract with a city officer or employee.

b. This section shall not prevent collective bargaining or contracts with any bona fide union.

2. No officer or employee of the City of Ypsilanti shall directly or indirectly solicit any contract with the City of Ypsilanti and any of the following:

a. Said officer or employee.

b. Any partnership, limited liability company or unincorporated association, or other legal entity of which the officer or employee is a partner, member, owner or part owner or employee.

c. Any corporation in which the officer or employee is an owner or stockholder of more than 1% of the total outstanding stock of any class if the stock is not listed on an exchange, or of value of \$25,000 or more if the stock is listed on a stock exchange or of which the officer or employee is a director, officer, or employee.

d. Any trust of which the officer or employee is a beneficiary or trustee.

3. No officer or employee of the City of Ypsilanti, including the Mayor and City Council, shall take part in the negotiations for any contract or renegotiation of contract or amendment of

contract or in approval of contract, or represent any party to the transaction when the contract is with the City of Ypsilanti and any of the entities set forth in 2 a-d above.

4. Section 2 and 3 above shall not apply to:

a. an Ypsilanti City officer or employee paid for working an average of 25 hours per week or less, (this exception does not apply to the Mayor and City Council); or

b. an Ypsilanti City officer or employee who is an employee of a public community college, junior college, or state college or university concerning a contract of that entity.

5. Provided however, that any contract permitted under paragraph 4 above must meet all the following requirements:

a. Public disclosure on the record to City Council of any pecuniary interest in the contract of the city officer or employee.

b. Approval of the contract by not less than $2/3$ of the full membership of City Council not counting the vote of the disclosing member.

c. City Council minutes must contain 1) the terms of the contract; 2) duration of contract; 3) consideration; 4) facilities or services included; 5) nature and degree of assignment of public employees for fulfillment of contract; 6) names of all parties; 7) the nature of any pecuniary interest.

6. Provided further that sections 1-5 above shall not prevent an officer or employee making or participating in making a governmental decision to the extent required by law.

a. If $2/3$ of the member of City Council are not eligible to vote on a contract or to constitute a quorum because of this ordinance or state law, a member may be counted for a quorum and vote on the contract if the member:

1. will benefit directly \$250 or less and/or;
2. will benefit less than 5% of the contract;
3. and in any case files a sworn affidavit to the facts which is recorded with the official minutes of the meeting.

7. Provided still further that the prohibitions set forth in sections 1-5 above shall not apply to:

a. Contracts between public entities;

b. Contracts awarded to the lowest qualified bidder other than an officer or employee of the city of Ypsilanti, provided 1) the bid is pursuant to published notice and sealed bids, and 2) no qualified bidder is prohibited from bidding except by law.

c. Section 7 (b) shall not apply to amendments, renegotiations of any existing contract or additional payments on any contract not authorized at the time of contract.

d. Contracts for public utility services where the rates are regulated by state or federal government.

e. Disposal of surplus city property to a city employee and or officer when the disposal is pursuant to sale by sealed bids after published public notice, or sale by public auction after public notice.

II. PROHIBITED CONDUCT

8. No person shall offer or give to any of the following persons a gift, loan, contribution, forbearance, reward or promise of future employment based on an agreement, promise, or expectation that the vote or official action or decision of an officer, employee or candidate for elected office in the City would be influenced thereby:

- a. A city officer, an employee of the city or a candidate for elected office in the city;
- b. A member of the immediate family of an individual referred to in (a) above; or
- c. a business or other entity with which an individual referred to in paragraph (a) or (b) is associated.

9. No person referred to in (8) above shall accept a gift, loan, contribution, reward or promise of future employment based on an agreement that the vote or the official action or decision of an officer, employee or candidate for elected office in the City would be influenced thereby.

a. Section 8 and 9 above shall not prohibit a city officer, employee or candidate for elected office in the City from accepting minor gifts such as meals, awards, pens, pencils, and other token items valued at \$25 or less when the gift is extended during the course of city business and no return promise is made by the recipient.

10. This ordinance does not prohibit the expression of views and opinions or communications of plans for future action, nor does it prohibit contributions to political parties or candidates as permitted by law.

11. No city officer, employee, contractor or agent shall divulge to any unauthorized person confidential information acquired in the course of holding city office, employment or position (including but not limited to information provided, obtained or discussed in closed or executive sessions of city council) in advance of the time authorized by the appropriate governmental body, department head, city manager or law, except as otherwise provided by law.

12. No city officer or employee shall make use of his or her public position, or any confidential information received through holding such public position, to obtain financial gain for him or her self, a member of his or her immediate family or an associated business or organization or entity.

a. This section shall not prevent any officer or employee from accepting their regular compensation.

13. No officer or employee shall make use of city personnel, resources, property or funds to obtain financial gain for himself, herself, a member of immediate family or an associated business.

a. This section shall not prevent any city officer or employee from benefiting a non-profit charitable organization when authorized by proper city council, manager or other legal authority action.

14. No officer or employee shall act on behalf of the City in the making of contracts when such officer or employee has, in fact, no authority to so do.

III. PARTICIPATION IN GOVERNMENTAL DECISIONS

15. No city officer or employee shall make or participate in making a decision in his or her capacity as a city officer or employee knowing that the decision will provide such officer or employee, a member of the officer or employee's immediate family, or a business with which the officer or employee is associated, a financial benefit of more than an incidental nature which is distinguishable from the benefits to the person as a member of the public or as a member of a broad segment of the public.

A city officer or employee who makes or participates in making a decision under this section, which places or may place him or her in a potential conflict of interest, shall deliver a public statement to the City Clerk prior to taking the action, disclosing the potential conflict of interest and explaining why, despite the potential conflict, he or she was able to make or participate in making the decision fairly, objectively and in the public interest.

16. Except as otherwise prohibited by law, a member of Council may make or participate in making a decision which may place him or her in a potential conflict of interest if the member first delivers a statement to the Mayor disclosing the potential conflict of interest, and explaining why, despite the potential conflict of interest, the member is able to vote and otherwise participate fairly, objectively and in the public interest. The statement shall be entered in full in the minutes of the City Council.

17. Section 16 and 17 above shall not apply to labor negotiations.

18. **Financial/Conflict disclosure.** All city council members, the city manager, city treasurer, city finance officer, and all city department heads, shall file an annual disclosure statement with the city clerk on or before April 15 of each year. The statement shall disclose and detail any interest of the filer in any company, business, trust or entity of any kind doing business with the City of Ypsilanti for the past year and state the type of interest, cost, income and benefits received and present value. The statement shall also include any interest of the filers immediate family in any such company, business, trust or entity. The disclosure statement shall be a public document.

Provided however, that disclosure need not be made of benefits received from any entity when an ownership interest is the only connection, and: 1) the company has stock traded on a national exchange and the filer owns \$25,000 or less of stock of the entity; or 2) the stock holder owns 1% or less of the total stock by value; whichever is greater, provided further that wages or salary received from a public community college, junior college or state college or university need not be reported.

19. Legal process. No city council member, city officer or employee of the city shall interfere with the ordinary course of law enforcement within the city, and no special favors, consideration or disposition shall be suggested to or requested of any law enforcement person of the city including city manager, police chief, police officers, ordinance officers, city attorney and/or administrative staff concerning any city law enforcement matter including (but not limited to) parking tickets, traffic tickets, ordinance tickets or enforcement of city codes.

This section shall not prohibit the city manager, city attorney, and all law enforcement officials from exercising the usual power, control and discretion which are part of their duties. Nor shall this section prohibit the Mayor and city council from making policy decisions, enacting legislation, and directing the affairs of the city in accordance with their legal powers and responsibility.

20. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by any court of competent jurisdiction to be invalid or unconstitutional, such portion shall be deemed a separate and distinct provision and such holding(s) shall not affect the validity of the remaining portions thereof.

21. Penalty. Any person who shall be convicted, by a court of competent jurisdiction, of violating any of the provision(s) of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500) or by imprisonment of not more than ninety (90) days, or both, in the discretion of the court.

a. In addition, any person so convicted by a court of competent jurisdiction shall forfeit any city employment or office held. The office shall be vacant upon conviction.

b. Any person convicted by a court of competent jurisdiction of a misdemeanor involving election fraud, or any felony, or a misdemeanor involving moral turpitude committed in the course of employment with the city, shall forfeit any city employment or office held. The office shall be vacant upon conviction.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS 22 DAY OF May, 1995.

151
CHERYL FARMER, Mayor

151
ROBERT A. SLONE, JR., City Clerk

Attest

I do hereby confirm that the above Ordinance No. 818 was published in the Ypsilanti Press on the 4 day of, June 9 5 .

RSI
ROBERT A. SLONE, JR., City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the 22 day of, May 9 5 .

RSI
ROBERT A. SLONE, JR., City Clerk