

CITY OF HASTINGS
County of Barry, State of Michigan

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 2 OF THE HASTINGS
CODE OF 1970, AS AMENDED, BY ADDING A NEW ARTICLE 2-VI,
“OFFICER AND EMPLOYEE ETHICS.”

THE CITY OF HASTINGS ORDAINS:

SECTION I.

That the Code of Ordinances, City of Hastings, Michigan, is hereby amended by adding a new Article 2-VI, to be numbered Sections 2-240 through 2-270, which reads as follows:

ARTICLE 2-VI
OFFICER AND EMPLOYEE ETHICS

DIVISION 2-VI-1 GENERALLY

Sec 2-240 Purpose

This Code of Ethics is adopted to allow all public officials to construe and implement ethical standards and guidelines, and require elected and appointed officials and employee’s conduct be above reproach. City officials and employees shall carefully and conscientiously avoid any conduct that undermines public confidence, guided by the following principles: public interest, objective judgment, accountability, democratic leadership, and respectfulness.

Sec 2-241 Definitions

Confidential Information means 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.

Employee means a person employed by the City, whether on a full-time or part-time basis.

Officer or Official means a person who holds office, by election or appointment, within the City regardless of whether the officer is compensated for service in his or her official capacity, including individuals appointed to the City Council or a City board or commission. It does not include City employees for the purposes of this Ordinance.

DIVISION 2-VI-2 STANDARDS OF CONDUCT

Sec 2-242 Confidential Information

A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed by the City Council or the Mayor for its authorized release to the public.

Sec 2-243 Personal Opinion

An officer or employee shall not represent his or her personal opinion as that of the City.

Sec 2-244 Public Resources

An officer or employee shall use personnel resources, property, and funds under the officer's or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

Sec 2-245 Personal Profit

A public officer or 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 public officer or employee 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 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 the City.

Sec 2-246 Incompatibility and Conflicts of Interest.

Except as otherwise provided in the Michigan Constitution of 1963 or by statute, an officer 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 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.

Sec 2-247 Personal and financial interests.

An officer or 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 officer or employee has a financial or personal interest.

Sec 2-248 Anti-nepotism

Unless the City Council shall by a two-thirds (2/3) vote, which shall be recorded as part of its official proceedings, determine that the best interests of the City shall be served and the individual considered by such a vote has met the qualifications for appointive office or employment, the following relatives of any elected or appointed officer are disqualified from holding any appointed office or employment during the term for which said elected or appointed officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the City at the time of the election or appointment of said officer to elective City office.

Sec 2-249 Representation before Governmental Body

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

DIVISION 2-VI-3 ENFORCEMENT

Sec 2-250 Investigation of Complaint

As deemed appropriate in its discretion, the City Council shall:

- (a) Upon receipt of a signed, written complaint against an officer or employee, investigate, conduct hearings and deliberations, conduct or issue referrals for disciplinary hearings and refer violations of this ordinance or state or federal criminal statutes to the attention of the appropriate attorney with a request for the filing of the appropriate criminal prosecution or civil infraction enforcement.
- (b) Receive information from the public pertaining to its investigations and seek additional information and documents from officers and employees of the City.
- (c) Request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the City to cooperate with the City Council during the course of its investigations. Failure or refusal to cooperate with requests by the City Council shall constitute grounds for discipline or discharge of appointed officers and employees of the City.

Sec 2-250 Notice and Hearing

- (a) Complaints alleging a violation of this ordinance shall be filed with the Clerk of the City.
- (b) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, 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 City Council hearing to determine the sufficiency of the complaint and to establish whether probable cause exists that the respondent named in the complaint violated this ordinance. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the City Council.
- (c) The City Council shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this ordinance, to determine whether there is a reasonable basis to believe that the respondent has violated of this ordinance based on the evidence presented by the complainant and any additional evidence provided to the City Council 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 City Council, the City Council shall issue notice to the complainant and the respondent of its 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 ordinance.

- (d) If the complaint is deemed sufficient to allege a violation of this ordinance and the City Council finds that there is a reasonable basis to believe that the respondent has violated this ordinance, then the Clerk shall notify in writing the attorney designated by the City Council and shall transmit to the attorney the complaint and all additional documents in its custody concerning the alleged violation, with the City Council'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 City with the City Council's request for the commencement of appropriate disciplinary action.
- (e) Any person who files a complaint alleging a violation of this ordinance 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 as well as the reasonable costs incurred by the City in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint..
- (f) A complaint must be filed with the Clerk within two years of the date the offense is alleged to have occurred or when it is discovered, whichever is later.

DIVISION 2-VI-4 SANCTIONS

Sec 2-251 Limitations

- (a) Sanctions shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, nor the City's obligation to comply with such collective bargaining agreements.
- (b) Section 2b of the Standards of Conduct for Public Officers and Employees, 1973 PA 196, MCL 15.341 et seq., set forth protections for officers and employees who act as whistleblowers regarding the conduct of the City's officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq.

Sec 2-252 Incorporation by reference

State statutes cited in this ordinance contain criminal penalties and civil remedies that apply, as provided in those statutes, to the conduct regulated by those statutes.

Sec 2-253 Civil Infraction

A violation of this ordinance may be punished as a civil infraction by a fine of up to \$ to be set by the City Council.

Sec 2-254 Intentional Violations

In addition to any other penalty, whether criminal or civil, an employee or officer who intentionally violates this ordinance may be subject to disciplinary action including censure, reprimand, removal, dismissal, or discharge.

Sec 2-254 Common Law Offenses

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.

[Secs 2-255 through 2-270 Reserved.]

SECTION II.

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION III.

This ordinance shall become effective upon its adoption and publication as provided by City Charter.

Moved by Member _____, with support by Member _____, that

YEAS:

NAYS:

ABSENT:

Ordinance No. ____ be adopted as read.

CITY OF HASTINGS

By: Christopher R. Bever
City Clerk

