

ORDINANCE NO. 07-423
AN ORDINANCE TO PRESCRIBE STANDARDS OF CONDUCT
FOR PUBLIC OFFICIALS AND EMPLOYEES

THE CITY OF TAYLOR ORDAINS:

Statement of Purpose: The purpose of this Ordinance, consistent with State of Michigan Public Act 196 of the Public Acts of 1973, as amended (“Standards of Conduct for Public Officers and Employees”), and also consistent with State of Michigan Public Act 388 of 1976, as amended (“Michigan Campaign Finance Act”), is to prescribe standards of conduct for public officers and employees to promote public confidence in public servants, to preserve the integrity of City government, and to establish clear disclosure requirements and standards of conduct for all public servants of the City of Taylor

It is the public policy of this City that all elected or 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 in accordance with the following guiding principles.

Responsibilities of public office

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

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 non-partisanship 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.

Section 1 **Definitions**

- a) “City official or employee” is a person elected, appointed or employed, or otherwise serving in any capacity involving the exercise of a public power or trust.
- b) “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.
- c) “Immediate Family” is a spouse, child, parent, sister or brother wherever residing, any relative sharing the same household, or a spouse of any of the above mentioned.
- d) “Official Duties” or “official actions” are decisions, recommendations, approvals, disapprovals, or other actions which involve the use of discretionary authority.

e) "Frivolous Complaint" means a complaint where it is determined that at least one of the following conditions are met: (1) the primary purpose of initiating the complaint was to harass, embarrass, or injure or; (2) there was no reasonable basis to believe that the facts alleged by the complainant were in fact true.

f) "Gift" means anything of true value which is given to a public official or city employee without payment of fair market value.

Section 2 Conflict of Interest

- (a) No City official 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, No city official 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.
- (b) No City official or employee shall intentionally take or refrain from taking any official action, or induce or attempt to induce any other city official 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 the city official or employee, a close business or political associate, an immediate family member, an outside employer, any business in which the city official or employee (or any immediate family member of the city official or employee) has a financial interest except as allowed in Sections 4.11 and 5.11 of the City Charter.
- (c) Any City official or employee who is a member of a decision making or advising body shall disclose any conflict of interest to the City Clerk and the chair and other members of that decision making body. In the case of an employee, the disclosure must be made to his/her immediate supervisor. See also MCL §15.342b.

Section 3 Prohibited Conduct

- (a) **Gifts.** A City official or employee shall not, directly or indirectly, solicit or accept any gifts, favors, gratuities or special consideration in any calendar year, with a total value of more than \$150.00 from any one company, business or entity, currently doing business with the City, (or seeking to do business with the City), or who is currently negotiating to do business with the City, or who otherwise is seeking any action or approval by the City, unless specifically allowed by City policy. A City official or employee may not solicit or accept, without reimbursement to the provider, any of the following: meals, sporting event tickets, social amenities, or attendance at any event from any person, organization or entity that does business or is seeking to do business with the City with a total value of more than \$150.00. By way of example, and not by limitation, a City official or employee could accept sporting event tickets with a value of \$140.00 from Vendor A in a calendar year and \$120.00 from Vendor B in a calendar year and not be in violation of this provision. This provision shall not apply to solicitations for charities or political fundraising done in compliance with the Michigan Campaign Finance Act. MCL § 169.252

Exceptions: (i) Free attendance at charity, political, or officially-related "widely attended" events. (ii) Anything paid for by federal, state, or local government.

- (b) **Non-City Business on City Time.** City officials and employees are to conduct only City business and may not conduct work for another employer during their usual and normal work hours with the City.
- (c) **Loans.** A City official or employee shall not use his/her official position to accept loans of either a personal or business nature from anyone other than a commercial lender at prevailing market rates.
- (d) **Preferential Treatment.** A City official 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 from the City or any business, individual or other third party.
- (e) **Use of Information.** A City official or employee who acquires information in the course of his or her official duties, which by law or policy is confidential, shall not 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. A City official or employee shall not divulge 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.

Section 4 Primacy of Collective Bargaining Agreements

Nothing in this chapter shall be read or implied to supersede any provisions of any collective bargaining agreement in effect on the Effective Date of the Ordinance codified in this chapter.

Section 5 Board of Ethics

- (a) Creation. There is hereby created an independent body called the “Board of Ethics.”
- (b) Objectives. The objectives of the Board of Ethics is to enforce and administer the standards of conduct set out in this ordinance and maintain the public confidence in the integrity of its elected and appointed officials.
- (c) Board Membership--Terms--Quorum--Meetings--Rules.
 - 1) The Board of Ethics shall consist of five (5) members, appointed by the Mayor with the advice and unanimous consent of the City Council. Current City officials or employees shall not be eligible for appointment to the board.
 - 2) Members shall be appointed for terms of five (5) years, except that of those first appointed, the initial terms shall be five years for one, four years for one, three years for one, two years for one, and one year for one. The determination of which members shall serve which terms shall be made by lot. In the event of a vacancy, the Board of Ethics shall appoint a member to fill the vacancy for the remainder of the term. Initial appointments shall be made within ninety (90) days of enactment of this ordinance. Nominations to fill vacancies shall be made within sixty (60) days of the occurrence of the

vacancy. No member of the Board shall serve more than one term or portion of a term consecutively.

- 3) Four (4) members of the Board of Ethics shall constitute a quorum and the affirmative vote of four (4) members present shall be necessary for any action. Members of the board shall serve without compensation.
- 4) The Board of Ethics shall annually elect a chairperson and a chairperson pro-tem.

Section 6 Complaint Process

- (a) Any person may file a written, sworn and signed complaint with the City Attorney (Corporation Counsel) alleging a violation by any officer or employee of the standards of conduct set out in this ordinance. If the alleged violation concerns the City Attorney, then the Mayor, or at his option, Special Counsel, shall perform the steps required of the City Attorney under this Ordinance. Each complaint shall be based on personal knowledge and shall fully state the facts of the violation.
- (b) The City Attorney shall, within fourteen (14) days of filing, review the complaint and determine; (1) Whether or not the complaint is in the proper form; (2) Whether the complaint falls under the scope and authority of the Board; and (3) Whether the complaint alleges and whether there is sufficient evidence of a prima facie violation of the Standard of Conduct Ordinance. If the City Attorney determines the complaint does not meet any one of the three (3) criteria, the City Attorney shall so advise the complainant and no further action shall be taken. If the complainant meets all three (3) criteria, the City Attorney shall, in his discretion, refer the matter to the Director of Human Resources for further administrative action and remedy or render a non-binding recommendation to the Board of Ethics as to what action the Board should take on the complaint, or both. This recommendation could include requesting a hearing, forwarding the complaint to another agency for investigation or dismissal of the complaint. A City employee shall be given notice of the complaint against him or her when the City Attorney refers the matter to the Director of Human Resources or renders a recommendation to the Board of Ethics. The City Attorney's referral and recommendation shall be considered privileged communication and not subject to disclosure.
- (c) Upon receipt and review of the Complaint and the recommendation of the City Attorney, the Board of Ethics shall decide upon a course of action.
- (d) If the Board of Ethics orders a hearing, the date for the hearing shall not be more than thirty (30) days from the date it received the recommendation of the City Attorney. The time limit shall not apply if the matter is referred for investigation under Section 7. Notice of the hearing shall be given to the officer or employee involved, the immediate supervisor, the Mayor and Council and the City Attorney by personal service or certified mail, return receipt requested. Notice shall be given not less than ten (10) days prior to the hearing.
- (e) The Board of Ethics shall issue a report and recommendation within thirty (30) days of the conclusion of the hearing.

- (f) The hearing shall be conducted informally with the City Attorney present. Prior to or at the commencement of the hearing, the officer or employee shall be advised that he or she has the right to request a closed hearing pursuant to MCL 15.268(a). Unless requested to be closed, the hearing shall be open to the public. Witnesses shall be sworn by the presiding officer of the Board of Ethics or other official authorized to administer oaths. The officer or employee shall have the right to counsel and the right to present evidence and witnesses and to cross-examine witnesses. The Michigan Rules of Evidence and Civil Procedure shall not apply, insofar as practical, hearings shall follow the Administrative Procedures Act, Act No. 306 of the Public Acts of Michigan of 1969, being MCL 24.201, et seq. A written or electronic record shall be kept of the proceedings. The Board of Ethics shall not have subpoena power.

Section 7 **Advisory Opinions**

A. **Requests.** Requests for advisory opinions shall be filed with the City Attorney and state the request in detail. The request shall be in writing and signed. The City Attorney shall examine the request and forward the request to the Board of Ethics for an opinion.

B. **Investigation.** The Board of Ethics may make such informal investigation of the facts and issues raised by the request for the advisory opinion as the Board deems advisable. The Board shall render its opinion within thirty (30) days of receiving the request. The Board of Ethics may reject a request for advisory opinion if the Board, in good faith, believes the request to be in bad faith, made for improper purposes, frivolous, of only minor consequence, or has been effectively ruled on or settled by past actions of the Board of Ethics, a City Ordinance, or other law.

C. If the City officer or employee is the subject of an advisory opinion and has received a copy of the opinion from the Board of Ethics, his or her actions shall be prima facie legal and ethical if he or she conforms to the opinion. This section shall not apply to a criminal act.

D. Advisory opinions may not be used for any purpose not specifically authorized by this article. Opinions of the Board shall not be binding but shall be advisory only.

Section 8 **Referral for Agency Investigation**

The Board of Ethics may refer any alleged violation or incident to the appropriate law enforcement agency at any time for investigation if it believes a crime has been committed. If any matter has been placed with a law enforcement agency for investigation, the Board of Ethics shall not proceed with any hearing concerning the same matter and/or facts until the conclusion of the investigation.

Section 9 **False or Frivolous Complaints**

The filing of a willfully false or willfully frivolous complaint as defined in Section 1(e), shall constitute a misdemeanor, and shall be referred to the City Attorney for possible criminal prosecution.

Section 10 **Prospective Application**

The Board of Ethics shall only investigate or consider conduct or issues which occur after the effective date of this ordinance and the Standard of Conduct Ordinance.

Section 11 Other Discipline

The report and recommendation issued by the Board of Ethics shall not bind or limit the action that can be taken by the officer's or employee's supervisor, the Mayor, or the City Council. The request for a hearing shall not stay any discipline, suspension or discharge. However, the person ordering the discipline, suspension or discharge may reconsider that matter after having the benefit of the report of the Board of Ethics. The City Council and any officer or employee shall not be obligated to request action by the Board of Ethics prior to taking any other action allowed by law.

Section 12 Other Action

The Board of Ethics shall hold any proceedings in abeyance in the event any complainant, party or person involved in a complaint to the Board of Ethics is currently involved in any suit, grievance or case involving the same matter and/or fact until the suit, grievance or case is finally determined, including any appeals.

Section 13 Administrative Assistance

(a) The City Clerk shall act as Secretary of the Board of Ethics and keep the files and records of the Board of Ethics.

(b) All governmental bodies and departments shall assist the Board of Ethics, the City Attorney's Office and any other law enforcement department or agency in investigating any complaints regarding possible violations of the Standard of Conduct Ordinance by City officers or employees.

(c) The City Attorney shall act as legal advisor to the Board of Ethics.

Section 14 Annual Report

The Board of Ethics shall file an annual report with the City Clerk in July of each year. The report shall contain the number of complaints referred during the prior year by the City Attorney, the general nature of each complaint and the disposition or recommendation of the Board. Names, titles, and other means of identifying the officer or employee investigated shall not be included in the report.

Section 15 Repeal

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 16 Saving Clause

Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 17 Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 18 Effective Date

This Ordinance shall take effect on August 19, 2007.

Section 19 Adoption

This Ordinance is hereby declared to have been adopted by the City Council of the City of Taylor, County of Wayne, State of Michigan, at a regular meeting, called and held on the 7th day of August, 2007, and ordered to be given publication in the manner prescribed by law.

AUTHENTICATION

This is to certify that the undersigned do hereby authenticate the foregoing record of the Ordinance herein set forth.

Cameron G. Priebe, Mayor
City of Taylor

Mary Ann Rilley, City Clerk
City of Taylor