



To: The Mayor & City Council  
From: Phil Nelson, City Manager  
Subject: Ethics Information  
Date: October 17, 2006

At the request of Councilmember Lambert, staff has gathered a considerable amount of information concerning governmental ethics. Attached are copies of the Birmingham Ethics Ordinance, and ethics principles and guidelines developed by the Josephson Institute Government Ethics Center.

In 2005, Legal staff did an extensive amount of research on what other Michigan cities have done concerning ordinances or policies. Staff did not provide copies of the Power Point presentation due to the length of the slide show. If the Council wants to review the information, staff can have the materials available during your study session.

After you review the attached information, and you have questions, please contact the City Attorney or me at your convenience.

PROPOSED  
ETHICS PRINCIPLES AND GUIDELINES

The City of Troy recognizes the following principles and guidelines, as espoused by the Josephson Institute Government Ethics Center, which are reiterated with permission, and adopted by the City of Troy.

I. **PUBLIC OFFICE AS A PUBLIC TRUST.**

Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

A. Pursuit of Public Interests.

In treating their office as a public trust, public servants, whatever their role, should diligently and in good faith pursue the public interest to the best of their ability and subordinate self-interest to the public good.

B. Ensuring Public Respect.

In treating their office as a public trust, public servants should act so as to ensure the reality and perception that government is conducted according to the highest principles of democracy with honesty, integrity and a concern for justice and is, therefore, worthy of respect, trust, and support.

1. *Avoiding Impropriety.* Public servants should maintain public trust in government by avoiding acts that place personal or private interests above pursuit of the public interest.
2. *Avoiding Appearances of Impropriety.* Public servants should avoid conduct that tends to undermine public trust by creating in the minds of reasonable impartial observers the perception that government office has been used improperly.

C. Formulation of Public Policy.

Persons with the responsibility for making public policy and laws should place the public interest over all other considerations.

1. *Elected Officials Should Make Policy.* In a representative democracy, public interest should be determined and translated into policies and programs by or under the direction of elected officials who are ultimately accountable to the public.
2. *Dealing With Conflicting Loyalties.* In pursuing the public interest, public servants should put loyalty to democratic principles and to the broadest public good above loyalty to political party, their constituencies and individuals.
3. *Ranking Loyalty Obligations.* When allocating public funds and formulating general public policies, elected officials should evaluate information objectively and decide what is best for the public as a whole, not just a narrow constituency.
4. *Organizational vs. Personal Loyalties.* Public servants with supervisory authority should safeguard and protect the public interest, the reputation of government and the integrity and efficiency of their department, even at the cost of injuring a superior, colleague, or friend.
5. *Protection of Minority Rights.* It is in the overall public interest that the will of the majority is tempered by a commitment to consider and protect the rights and advance the interests of minorities, especially those that are not sufficiently represented in the normal decision making process.

#### D. Implementation of Policy.

Public administrators and executives should interpret and implement policies and laws in good faith and energetically pursue the goals of policy and lawmakers.

1. *Subordination of Personal Views.* Public servants charged with the administration of policies and laws should do so as equitable, efficiently, and economically as possible, regardless of their personal views.

2. *Dealing With Policy Disagreements.* Public servants who find that their personal convictions are irreconcilably incompatible with lawful policies should openly state their conflict and, in some cases, withdraw from the administration of such policies.
3. *Whistle Blowing: Disclosure of Unlawful or Improper Policies or Actions.* Public servants who have a good faith belief that the public interest requires the disclosure of governmental policies or actions thought to be unlawful or improper should reveal their information to appropriate authorities.
4. *Leaking.* Except in matters of great public importance where identifying oneself as the source of information would involve unreasonable personal risks, public servants should not secretly reveal confidential matters or allege improprieties.

E. Personal Gain From the Performance of Public Duties.

Except for official compensation, public servants should neither seek nor accept any form of payment, gratuity or other personal benefit relating to the performance of their responsibilities.

1. *Performance of Duty.* Public servants should neither seek nor accept any form of personal benefit for the performance of their duty to deal with a matter promptly, efficiently or fairly or for the exercise of appropriate but discretionary representational authority.
2. *Accessibility of Elected Officials.* Elected officials should assure that constituents and others who may be affected by public policies have a fair and equal opportunity to express their concerns, grievances, and ideas without regard to their willingness or ability to provide personal benefits or political support to the official.
3. *Personal Benefits Should Never Appear to Be Necessary.* Public servants should not engage in any conduct which could create in the mind of a reasonable observer the belief that persons will receive better or

different service if they provide personal benefits or political support to a government official.

F. Use of Public Employees for Personal Benefit.

Public servants should not use public employees on government time for private benefit.

1. *Subordinate's Responsibility To Say No.* Public employees should refuse to perform improper personal tasks on government time.

G. Use of Government Property for Personal Benefit. A public servant should not use government property or facilities for private benefit.

H. Use of Title or Prestige for Personal Benefit.

Public servants should not use, nor allow others to use, the authority, title, or prestige of public office for the attainment of private financial, social or political benefits in any manner that is inconsistent with public interests.

1. *Use For Commercial Purposes.* Public servants should not permit their names or official titles to be used by a nonpublic enterprise in any manner that would lead reasonable observers to believe that those who deal with the enterprise may receive special treatment or advantages as a result of a formal association with the public servant.
2. *Exploitive Fees.* The present or former holder of a high public office that carries with it substantial prestige should not appear to sell the stature of the office by accepting sums that create a general perception that the office has been exploited for private gain.
3. *Use For Private Advantage.* Public servants should not use official letterhead or refer to their public position as a means of inducing or intimidating persons to resolve disputes more favorably, provide preferential treatment, or give free tickets, discounts, favors or other advantages.

I. Use of Public Powers for Political Advance.

A public servant should not use the resources, prerogatives and powers of office primarily to advance political interests.

1. *Use of Public Employees.* A public servant should not seek to use public employees, on government time, to assist in political party activities, campaigning, fund raising, or other partisan or personal political activities.
2. *Use of Public Facilities.* A public servant should not conduct nor allow campaign and fund raising activities on government premises nor use government resources for these purposes.
3. *Use of Public Authority.* A public servant should not use public authority primarily to achieve personal political advantage or favorable press coverage.

J. Use of Campaign Funds for Private Benefit.

Public servants to run for office should use campaign funds only for expenses directly relating to campaigning (e.g. salaries, consultant fees, travel, printing, media, polling, communication with voters and constituents) and not for personal or other political purposes.

1. *Improper Expenditures.* Campaign funds should not be used to supplement personal income or enhance a personal life style.
2. *Loans.* Candidates should not borrow from campaign funds nor loan them to any other person, whether or not interest is paid.
3. *Disclosure About the Use of Funds.* Public servants to raise campaign funds with the intent or known possibility that they will be used for a purpose other than direct campaign expenses relating to a current election should disclose their intent to the donor in order to avoid any possibility of raising money under false pretenses.

## II. PRINCIPLES OF INDEPENDENT OBJECTIVE JUDGMENT.

Public servants should employ independent objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

### A. Conflicts of Interest.

Public servants should safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial, social and political relationships and transactions that may compromise or give the appearance of compromising their objectivity, independence or honesty.

1. *Disclosure of Financial Conflicts of Interest.* Public servants should safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial, social and political relationships and transactions that may compromise or give the appearance of compromising on their objectivity, independence or honesty.
2. *Avoidance of Financial Conflicts.* Public servants should make all reasonable efforts to avoid transactions that may compromise or give the appearance of compromising their objectivity, independence or honesty.
3. *Benefits Intended to Influence.* Public servants should not accept benefits of any sort under circumstances in which it could be reasonably inferred that the benefit was intended to influence them in the performance of their public responsibilities.
4. *Duty to Report Improper Offers.* When the possibility of improper motive requires refusal of a gratuity, the official should firmly warn the person about bribery laws and improper influence; if the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

5. *Appearance of Undue Influence.* Regardless of the actual intent of the provider or recipient, public servants should not accept benefits of any sort under circumstances that would create in the mind of a reasonable observer the belief the benefit may influence them in the performance of their public responsibilities.
- a. *Earned income from persons directly affected by actions or decisions.* Public servants should avoid engaging in financial relationships that might reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are unlikely to be affected directly by their actions or decisions.
  - b. *Gratuities from persons directly affected by actions or decisions.* Public servants should refuse to accept any gratuities that may reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are likely to be affected directly by their actions or decisions.
  - c. *Campaign contributions from persons directly affected by decisions.* Public servants should be cautious about accepting campaign contributions that may reasonably be construed to affect their judgment or actions, especially from other lobbyists or other persons who are likely to be affected by their decisions.
  - d. *Personal relationships with persons directly affected by decisions.* Public servants should be cautious about accepting campaign contributions that may reasonably be construed to affect their judgment or actions, especially from lobbyists who are likely to be affected directly by their decisions.

B. Recusal and Disqualification.

Public servants should not take any public action under circumstances where, due to a conflict in interests, they are not certain that they can do so fairly and objectively.

C. Bias or Favoritism.

Public servants should exercise the powers and prerogatives of office fairly without prejudice or favoritism. It is improper to use public authority to reward relatives, friends or political supporters or to hinder or punish enemies and opponents.

D. Intervening on Behalf of Constituents and Friends.

Public officials should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory, or adjudicative processes of governmental bodies on behalf of constituents or friends, since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits.

1. *General Rule.* Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures and the intervener consciously avoids seeking to unduly influence the decision making process.
2. *Those who intervene* should firmly, explicitly and unambiguously convey their limited purpose to reduce the possibility of direct or indirect pressure on administrators that could reasonably appear to influence the substantive decision.

III. **PRINCIPLE OF ACCOUNTABILITY.**

Public servants should assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.

A. Oversight.

Public servants should assure that those to whom they have delegated public power, including their staffs and administrative agencies, carry out their responsibilities efficiently, equitably and ethically.

B. Openness.

Public servants should exercise the authority of their offices openly so that the public is informed about governmental decisions and the citizenry can hold them accountable for their actions.

C. Duty to Improve the System.

Public servants who believe that a law or policy is not achieving its intended purpose, is creating unintended harms, or is wasteful or inefficient, should take affirmative steps to improve procedures in a way that will increase the fairness and quality of government services and assure that policies are implemented equitably, efficiently and economically.

1. *Making Changes.* Public servants should take whatever actions they can to correct problems, streamline procedures and improve services. Where desirable changes exceed authority, public servants should promptly and forcefully recommend reform to the appropriate person or body.
2. *Supervisor's Duty.* In order to encourage a broad sense of responsibility for both the results and methods of government action, supervisors should develop a working environment that fosters constructive criticism and creative problem solving.

D. Self- Policing.

Public servants should maintain the integrity and trustworthiness of government by taking whatever steps are necessary, including reporting improper conduct to appropriate authorities, to prevent the unlawful or unethical use of public position, authority or resources.

#### **IV. PRINCIPLE OF DEMOCRATIC LEADERSHIP.**

Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

##### **A. Obeying All Laws.**

Public servants have a special obligation to obey all laws and regulations.

##### **B. Artifices and Schemes.**

Public servants should not engage in artifices and schemes to exploit loopholes or ambiguities in the law in a way that undermines their spirit and purpose.

##### **C. Integrity of the Process.**

In using procedural rules, public servants should maintain the integrity, fairness and efficiency of the process by honoring the substance and spirit of the rules and by refraining from conduct which undermines the principles of representative democracy.

##### **D. Use of Leadership Power.**

Legislative leaders and committee chairs should use their leadership powers only in a manner consistent with representative democracy.

##### **E. Civil Disobedience.**

In rare cases, a public servant may exercise the prerogative of conscientious objection by disobeying the law. In such cases, the illegal behavior should be open and the official should be willing to bear the appropriate legal and political consequences.

#### **V. PRINCIPLE OF RESPECTABILITY AND FITNESS FOR PUBLIC OFFICE.**

Public servants should safeguard public confidence in the integrity of government by being honest, fair, caring and respectful and by

avoiding conduct creating the appearance of impropriety of which is otherwise unbecoming a public official.

A. Fitness of Public Office.

Public servants should conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for public office.

1. *Honesty.* Public servants should be scrupulously honest, avoiding any form of lying, deception, deviousness, hypocrisy, and cheating in their professional and personal lives.
2. *Integrity.* A public servant should reflect personal integrity in all matters, placing principle over expediency and demonstrating courage of convictions.
3. *Private Personal Conduct.* Public servants should avoid engaging in any conduct that is likely to bring discredit on themselves and the governmental bodies in which they serve.

B. Campaigning.

Those seeking public office should conduct their campaign in a way that aids the citizenry to make an informed choice on appropriate criteria and which casts credit on government and the election process.

- Home
- About Birmingham
- Residents
- Businesses
- City Government
- Services

City Government

City Government » Boards and Commissions » Board of Ethics

## Ethics Board Ordinance

 [Printer Friendly](#)

### CITY OF BIRMINGHAM

### ORDINANCE NO. 1819

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, OF THE CITY CODE OF THE CITY OF BIRMINGHAM, TO REVISE SECTION 2-324 A. CONFLICT OF INTEREST – GENERAL, SUBSECTION IX, AND SECTION 2-325, VIOLATION, ENFORCEMENT AND ADVISORY OPINIONS, SUBSECTION B, FUNCTIONS OF THE BOARD OF ETHICS, OF THE CITY OF BIRMINGHAM ETHICS ORDINANCE

#### THE CITY OF BIRMINGHAM ORDAINS:

Chapter 2, Administration, of the Birmingham City Code is hereby amended as follows:

Article IX, Sections 2-320 through 2-326 are hereby added to read as follows:

#### SECTION 2-320. PUBLIC POLICY.

Public office and employment are public trusts. For government to operate properly, each City official, employee, or advisor must earn and honor the public trust by integrity and conduct.

The City of Birmingham hereby declares that all City officials and employees must avoid conflicts between their private interests and the public interest. Public officials and employees must:

- ▶ City Codes and Ordinances
- ▶ Elected Officials
- ▼ **Boards and Commissions**
  - ▶ Board and Commission Opportunities
  - ▶ Ad Hoc Barnum Property Committee
  - ▶ Ad Hoc Joint Venture Committee
  - ▶ Advisory Parking Committee
  - ▶ Architectural Review Committee
  - ▶ Barnum Center Steering
  - ▶ Birmingham Area Cable Board
  - ▶ Board of Review
  - ▶ Board of Zoning Appeals
  - ▶ Brownfield Redevelopment Authority
  - ▶ City Commission
  - ▶ Design Review Board
  - ▼ **Board of Ethics**
    - ▶ Current Agenda
    - ▶ Minutes
    - ▶ **Ethics Board Ordinance**
    - ▶ Advisory Opinions
    - ▶ Complaints
  - ▶ General Investment Committee
  - ▶ HDDRC
  - ▶ HDSC
  - ▶ Historic District Commission
  - ▶ Historical Board
  - ▶ Housing Board of Appeals
  - ▶ Library Board
  - ▶ Parks & Rec Board
  - ▶ Planning Board
  - ▶ Principal Shopping District
  - ▶ Public Arts Board
  - ▶ Retirement Board
  - ▶ Retiree Health Care

- ▶ Traffic & Safety Board
- ▶ City Departments
- ▶ City Organizational Chart
- ▶ Telephone Directory

- Be independent, impartial and responsible to the people;
- Make governmental decisions and policy in the proper governmental channels;
- Not use public office for personal gain.

To enhance public trust, the City of Birmingham must provide its officials and employees with adequate guidelines for separating their roles as private citizens from their roles as public servants.

This Code sets minimum standards of ethical conduct for all City officials and employees, elected or appointed, paid or unpaid. It proscribes actions incompatible with the public interest and directs disclosure of private financial or other interests in matters affecting the City.

#### SECTION 2-321. 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 of Birmingham. 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 both their official and private 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 2-322. DEFINITIONS, AS USED IN THIS CODE.

- I. "City official or employee" means a person elected, appointed or otherwise serving in

any capacity with the City of Birmingham in any position established by the City Charter or by City Ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the City, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions. The term does not include election inspectors and student representatives appointed to City boards or commissions.

"Consultant" means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training.

- II. "Compensation" means any money, property, thing of value or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.
- III. "Financial interest" means any interest in money, property or thing of value or benefit.
- IV. "Immediate family" means a City official or employee, his or her spouse, parents or children.
- V. "Official duties" or "official action" means a decision, recommendation, approval, disapproval or other action or failure to act, which involves the use of discretionary authority.
- VI. "Personal interest" means an interest arising from blood or marriage relationships or any business association.
- VII. "Private gain" means any interest or benefit, in any form, received by a City employee or official.
- VIII. "Substantial" shall mean considerable in quantity or significantly great.

#### SECTION 2-323. INTENTION OF CODE.

It is the intention of Section 2-324 below that City officials and employees avoid any action, whether or not specifically prohibited by Section 2-324, which might result in, or create the

appearance of:

- I. Using public employment or office for private gain;
- II. Giving or accepting preferential treatment, including the use of City property or information, to or from any organization or person;
- III. Losing complete independence or impartiality of action;
- IV. Making a City decision outside official channels; or
- V. Affecting adversely the confidence of the public or the integrity of the City government.

The Code of Ethics is intended to be preventative and not punitive. It should not be construed to interfere with or abrogate in any way the provisions of any Federal or State Statutes, the Birmingham City Charter, the City of Birmingham Ordinances, or any rights and/or remedies guaranteed under a collective bargaining agreement.

This declaration of policy is not intended to apply to contributions to political campaigns, which are governed by State Law.

SECTION 2-324. A CODE OF ETHICS IS HEREBY PROMULGATED AS FOLLOWS:

A. CONFLICT OF INTEREST -- GENERAL.

- I. No official or employee of the City of Birmingham shall divulge to any unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.
- II. No official or employee of the City of Birmingham shall represent his or her personal opinion as that of the City.

- III. Every official or employee of the City of Birmingham shall use personnel resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.
- IV. No official or employee of the City of Birmingham shall directly or indirectly, solicit or accept any gift or loan of money, goods, services or other thing of value for the benefit of any person or organization, other than the City, which tends to influence the manner in which the official or employee or any other official or employee performs his or her official duties.

Gratuities do not include fees for speeches or published works on legislative subjects and, except in connection therewith reimbursement for expenses for actual expenditures for travel, and reasonable subsistence, for which no payment or reimbursement is made by the City of Birmingham, invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends.

- V. No official or employee of the City of Birmingham shall engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.
- VI. No official or employee of the City of Birmingham shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of his or her official duties.

This section shall not prohibit a part-time elected or appointed City official from engaging in private employment or business on his or her own time as a private citizen and where City business is not involved, subject to his or her disclosing such private employment or business on the public record for any matter on which he or she may be called upon to act in his or her official capacity, in accordance with Section 5 B below. He or she shall refrain from voting upon or otherwise participating in debate on any such matter.

- VII. No official or employee of the City of Birmingham shall participate, as an agent or representative of the City, in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest.

VIII. No official or employee of the City of Birmingham shall use, or attempt to use, his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.

IX. It is recognized that various boards and committees are part of the plan of government for the City of Birmingham. As such, it is further recognized that by virtue of the various requirements for membership of the Board, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial or personal interests. Therefore, those members of the various boards and committees in the City of Birmingham, as they may be established from time to time, may participate in such decisions provided that they act:

- i) In furtherance of the public good;
- ii) In compliance with the duties of their respective boards; and,
- iii) In a manner consistent with subpart VIII of this Section.

X. Determination of Conflict of Interest.

A conflict of interest exists if:

- A) The City official or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that City official or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's or employee's governmental duties, or;
- B) The City official or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;
- C) The public official has any other prohibited interest as defined by Michigan statutes relating to conflicts of interest.

XI Subsequent Conflict of Interest.

No official or employee of the City of Birmingham shall acquire any financial interest in or accept any employment concerning any project which has been granted approval by the City or any commission, board, department or employee thereof within one year of the official's or employee's participation in any manner in considering or recommending the approval or disapproval of said project.

B. FULL DISCLOSURE.

I. Responsibility to Disclose.

It shall be the responsibility of the official or employee to disclose the full nature and extent of his or her direct or indirect financial or personal interest in a matter before him or her.

No official or employee of the City of Birmingham shall participate, as an agent or representative of the City, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest. The official or employee shall, in such circumstances, recuse himself or herself from the matter before him or her.

II. Disclosure of Conflict of Interest and Disqualification.

A. Any City official or employee who has a conflict of interest, as defined herein, in any matter before the City shall disclose such fact on the appropriate record of the City prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:

(I) A City Commissioner shall disclose any conflict of interest and the nature and extent of such interest on the record of the City Commission;

- (II) A member of any City board, commission or committee shall disclose any conflict of interest and the nature and extent of such interest on the records of said board, commission or committee;
  
  - (III) A City employee who has a financial or other interest in a matter before the City Commission or any City board, commission or committee and who participates in discussion with, or gives an official opinion to the City Commission, or to such other City board, commission or committee relating to such matter, shall disclose on the records of the City Commission or such other City board, commission or committee, as the case may be, any conflict of interest and the nature and extent of such interest.
  
  - (IV) Otherwise, any appointed City official or employee shall address such a disclosure to the supervisory head of his or her department, and any elected City official shall address such a disclosure to the general public.
- 
- B. If a City official, commissioner or employee who has a conflict of interest, as defined herein, in any matter before the City, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, the matter under consideration shall be immediately referred to the Board of Ethics for a final determination as to the conflict in question and whether the official, commissioner or employee must refrain from discussion, deliberation, action or voting thereon.
  
  - C. Within twenty (20) days after election, employment, appointment, or the effective date of this ordinance, or any change in the facts set forth in the City official's or employee's previously filed Disclosure Statement, each City official and employee shall file with the City clerk an Affidavit and Disclosure Statement. The City clerk shall provide each City official or employee with the required Affidavit and Disclosure Statement form immediately upon his or her election, employment or appointment. The Affidavit and Disclosure Statement does not apply to part-time and temporary employees of the City of Birmingham. Additionally, the disclosure requirements on this section do not apply to regular full-time employees below the level of assistant department head, except at the discretion of the City Manager.
  
  - D. The effective date for this ordinance shall be July 21, 2003.

## SECTION 2-325. VIOLATION, ENFORCEMENT AND ADVISORY OPINIONS.

## A. Board of Ethics.

- (I) The City Commission shall appoint a Board of Ethics, consisting of three members, as an advisory body for the purpose of interpreting this Code of Ethics.
- (II) The initial three members of the Board of Ethics shall be appointed for one-, two-, and three-year terms of office respectively, which shall begin on July 1, 2003. If appointed prior to July 1<sup>st</sup>, they shall begin their terms of office immediately and their terms shall include the additional time prior to July 1<sup>st</sup>. Terms of office shall expire on June 30<sup>th</sup> of the respective years.

Thereafter, all members shall be appointed to three-year terms, beginning July 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The City Commission shall fill a vacancy by an appointment for the unexpired term only.

- (III) The Board of Ethics shall be made up of residents of the City who have legal, administrative or other desirable qualifications.
  - a) The members of the Board of Ethics shall serve without compensation, and shall not be elected officials, persons appointed to elective office, full-time appointed officials or City employees, nor shall they be currently serving on any other City board or commission.
  - b) The Board shall select its own presiding officer from among its members.
  - c) The Board shall establish such procedures it deems necessary or appropriate to perform its functions as set forth in this ordinance.

## B. Functions of the Board of Ethics.

When there is a question or a complaint as to the applicability of any provision of this Code to a particular situation, that question or complaint shall be directed to the Board of Ethics. It shall then be the function of the Board of Ethics to conduct hearings and/or issue an advisory opinion, as applicable.

## (I) Hearings.

The Board of Ethics shall follow the following hearing procedure:

- a) The Board shall, within seven days after any matter is brought to its attention, set a date certain for hearing said matter.
- b) The Board shall, at least twenty-eight days before the hearing date, send notice of such hearing, accompanied by a copy of the complaint of the alleged breach of this Code of Ethics, to any person requested to appear before them, by certified mail, return receipt requested, to addressee only.
- c) Any person requested to appear before a Board of Ethics hearing may request one extension for a period not to exceed twenty-eight days. Extensions thereafter will be granted only under extreme circumstances.
- d) Any person requested to appear before a Board of Ethics hearing may be accompanied by his or her attorney.
- e) All hearings at which any person shall be requested to appear shall be subject to the Open Meetings Act.
- f) All findings of Board hearings shall be published in permanent form and communicated to the City Commission and the public, subject to the requirements of the Open Meetings Act.

## (II) Advisory Opinions.

All advisory opinions so issued shall also be published in permanent form and communicated to the City Commission and the public, subject to the requirements of the Open Meetings Act.

## (III) After the Board of Ethics' advisory opinions and/or hearing findings have been published:

(a) The City Commission shall be responsible for imposing any sanction for a violation of this code on one of its members or any person appointed by the Commission to any City Board.

(b) If it becomes necessary to seek the removal of a City official after the Board of Ethics' advisory opinion and/or hearing findings, the City shall follow the requirements for removal of a public official in accordance with the laws of the State of Michigan.

(c) The City Manager shall be responsible for imposing any discipline for a violation of this code on any employee of the City.

## Section 2-326 AFFIDAVIT AND DISCLOSURE STATEMENT

Immediately following an election, employment or appointment of a City official or employee, the City clerk shall provide the individual with an Affidavit and Disclosure Statement form. Within twenty days after election, appointment, employment or any change in the facts set forth in the City official's or employee's previously filed Affidavit and Disclosure Statement, all City officials or employees shall file with the City clerk an Affidavit and Disclosure Statement including the following:

A. A disclosure statement responding in detail to the following questions:

1. To the best of your knowledge, do you or any members of your immediate family own any interest in real property located within the City of Birmingham, in land contiguous to the City of Birmingham, or in any area covered by a 425 Agreement to which the City of Birmingham is party?
  
2. If your answer to question 1 is affirmative, to the best of your knowledge state the following information for each such interest owned:
  - (a) The nature of your interest in the real property;
  - (b) The location of the real property (for improved property, provide the street address; for unimproved property state its location in relation to existing streets), and;
  - (c) The property's permanent real estate tax identification number.
  
3. To the best of your knowledge, do you or members of your immediate family own five percent (5%) or more of any business entity located in the City of Birmingham?
  
4. If your answer to question 3 is in the affirmative, state the following, to the best of your knowledge:
  - (a) The name of the entity;
  - (b) The address of the entity;
  - (c) The nature of your relationship to the entity, and;
  - (d) The date relationship commenced.
  
5. To the best of your knowledge, do you or any members of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit that is not reported in the prior answers.
  
6. To the best of your knowledge, have you or any members of your immediate family given or received any gifts, other than from immediate family members, the value of which exceeds \$50.00, within the last year, or since the effective date of this code, whichever time period is shorter, to or from any person or business or other legal entity doing business with the City, other than legal campaign contributions? If so, list the names and addresses of each donor or donee of each such gift and the date upon which it was made and the nature of the gift.

- B. An affidavit in which the City official or employee states: "I have read and I understand the Code of Ethics of the City of Birmingham and, to the best of my knowledge, I am not in conflict with its provisions."

Dated:

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public

\_\_\_\_\_ County, Michigan

My Commission Expires:

ORDAINED this 12<sup>TH</sup> day of January, 2004. Effective upon publication.

Donald F. Carney Jr., Mayor

Nancy M. Weiss, City Clerk

I, Nancy M. Weiss, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the commission of the City of Birmingham, Michigan at a regular meeting held January 12, 2004 and that a summary was published January 18, 2004.

Nancy M. Weiss, City Clerk

---

[Privacy Policy and Disclaimer](#) - [Site Map](#) - Website Developed by Vision Internet