

COUNCIL ETHICS RULE 5 -- IMPROPER USE OF POSITION -- GIFTS

Proposed Rule: A Councilmember shall not accept a gift or loan of money, goods, services, or item of value from any individual, company, or organization that is given to a Councilmember because of his or her Council position; nor shall a Councilmember solicit any such gift or loan.

This rule is not intended to apply to gifts or loans from family members or friends, unrelated to the Councilmember's position on Council. This rule is not intended to apply to business or personal loans relating to the personal or business finances of a Councilmember, such as a bank mortgage.

This rule does not apply to political contributions obtained in compliance with state campaign finance law. This rule does not apply to food or beverages provided at social events sponsored by individuals, companies, or organizations and attended by Councilmembers as well as other invited members of the public. This rule does not apply to other products with a value under \$20 that are generally distributed at a seminar or event. This rule does not apply to written materials received for educational or informational purposes. This rule does not apply to minor refreshments (such as bottles of water or cups of coffee) beverages under any circumstance. This rule does not apply to a waiver of fees to attend a political, governmental or non-profit events.

Rationale: This provision attempts to provide a reasonable and definition of gift, recognizing that a Councilmember also has a personal life in which gifts are customarily given and received and recognizing that a Councilmember attends social functions along with other members of the public at which food and beverages are served.

Sources: City Employee Rule 3.2

Act 196, MCL 15.342 (4)

Model Ethics Rules, Rule 4

Example: A Councilmember may accept food served at an open house for a non-profit at which Councilmembers and others are invited to attend.

Example: A Councilmember may accept a ticket to attend an event if that Councilmember has a role in the program or if she is invited to attend a networking event.

COUNCIL ETHICS RULE 6 -- IMPROPER USE OF OFFICIAL POSITION – DISCLOSURE OF CONFIDENTIAL INFORMATION

Proposed Rule: A Councilmember shall not divulge to an unauthorized person, confidential information acquired by virtue of his or her position as a Councilmember until a time that that information becomes public information. Furthermore, a Councilmember may not use confidential information, obtained by virtue of his or her position, for his or her own benefit or for the benefit of any other person or entity. Confidential information is information acquired by a Councilmember in the course of holding public office that is not available to members of the public and which the Councilmember is not authorized to disclose by statute or common law duty.

Rationale: Councilmembers obtain confidential information based on their position. They have a fiduciary obligation to keep that information confidential.

Source: City Employee Rule 3.4

Act 196, MCL 15.342, Rule 1

Model Ethics, Section 7

Example: A Councilmember shall not disclose the range of settlement authority for a pending litigation case discussed in a closed session of the Council.

COUNCIL ETHICS RULE 7 - IMPROPER USE OF OFFICIAL POSITION – MISUSE OF CITY RESOURCES

Proposed Rule: A Councilmember shall not use or authorize the use of City funds, property, personnel, office space, equipment, supplies, or vehicles for personal benefit. However, a Councilmember may use City property on the same terms and conditions as it is available to the public generally. A Councilmember can use the city provided computer for personal use as set forth in the computer use policy, but not for personal business use or political activity.

Rationale: A Councilmember may have access to City resources and should use those resources only for City business.

Source: City Employee Rule 3.4
Act 196, MCL 15.342 (3)
Model Ethics Code, Rule 11
Act 388, MCL 169.201 (1) (Campaign Finance Act)

Examples:

A Councilmember may not use City office supplies for political campaign purposes.

A Councilmember may not use a City car to make a personal trip.

A City Councilmember may rent a City facility for a campaign event (for example at Cobblestone farm) on the same terms and conditions as it is available to the public generally.

COUNCIL ETHICS RULE 8 -- IMPROPER USE OF OFFICIAL POSITION -- REPRESENTATIONS

Proposed Rule: A Councilmember shall not represent that he or she is authorized to speak for the entire Council.

Rationale: An individual Councilmember has no authority to bind the City and decisions of the Council must be made in open session, so therefore any representation of the City's position would be inaccurate and misleading.

Source: Act 196, MCL 15.341(2)

Example: A Councilmember shall not represent to a developer that a development project would be acceptable to the City Council if proposed.

COUNCIL ETHICS RULE 9 -- IMPROPER USE OF OFFICIAL POSITION – POLITICAL SOLICITATION

Proposed Rule: A Councilmember shall not request any City employee (that the Councilmember knows to be a City employee) to participate, or not participate, in any political activity, including the making of a campaign contribution. This rule does not prohibit a Councilmember from providing political literature to City employees at their residence, or away from the work site, in the same manner as other residents. A Councilmember shall not knowingly send political e-mail to City employees at their City e-mail addresses.

Rationale: Solicitation of employees creates the appearance of coercion. Employees may feel compelled to act in a certain manner if requested by a Councilmember. Moreover, employees have the legal right to engage in political activities, including those related to City politics. MCL 15.403(1). A Councilmember may not request that an employee cease political activity.

Source: Model Ethics Code, Rule 8.

Example: A Councilmember cannot request that a City employee make a contribution to his political campaign.

COUNCIL ETHICS RULE 10 -- IMPROPER USE OF OFFICIAL POSITION – NEPOTISM

Proposed Rule: No Councilmember shall influence or attempt to influence the hiring by the City of any member of the Councilmember's family.

Rationale: This rule sustains the fairness of the City's hiring and employment practices.

Source: Model Ethics Code, Rule 12.

Example: A Councilmember cannot ask a Service Area Administrator to hire his daughter for an open position.

COUNCIL ETHICS RULE 11 -- IMPROPER USE OF OFFICIAL POSITION –Labor Discussions

Proposed Rule: An individual Councilmember shall not respond to information provided by Union employees prior to discussing the information with staff or attempt to negotiate with union employees on labor issues. All negotiations with City collective bargaining units will be conducted by City administration.

Rationale: With respect to the union negotiations, there are situations where discussions with union officials could result in an unfair labor practice charge as they could be considered negotiations.

Source: Michigan labor law.

Example: If a Union representative discusses changes to wages, hours, or working conditions, a councilmember should take the information and contact the Director of Human Resources and Labor Relations and should not comment on the merits of the proposed changes.

COUNCIL ETHICS RULE 12 -- IMPROPER USE OF OFFICIAL POSITION – ENCROACHMENT ON ADMINISTRATIVE RESPONSIBILITY

Proposed Rule: A Councilmember shall not provide work assignments to City employees or attempt to direct or interfere with the work of City employees. Councilmembers shall respect the administrative responsibilities of the City Administrator. A Councilmember shall bring issues of concern regarding the implementation or administration of City Council policy to the attention of the City Administrator. If a Councilmember is concerned about a work related matter, the Councilmember shall email the concern to the City Administrator and the applicable Service Area Administrator. A Councilmember shall refrain from sending email requests to City employees below the level of Service Area Administrator unless instructed to do so by the City Administrator or the Service Area Administrator.

Rationale: The City Administrator should be free to carry out City Council policies without interference by individual Councilmembers and should handle each problem without discrimination on the basis of consistent principles and justice. Accountability to the City Council as a body, accuracy and consistency of information, and consistency in the implementation of City Council policies are enhanced by Councilmembers not encroaching on the responsibilities given the City Administrator by the City Charter.

Source: City Charter, Section 5.1(b)(1). The Charter provides broad authority to the City Administrator to direct, supervise, and coordinate the work of the City.

Example: A Councilmember shall not contact a police officer concerning a ticket given to a resident.

A Councilmember shall not interfere with the hiring or termination of a City employee.

COUNCIL ETHICS RULE 13 -- IMPROPER USE OF POSITION – APPEARANCE BEFORE BOARDS AND COMMISSIONS

Proposed Rule: A Councilmember shall not appear before the following boards and commissions on his or her own behalf or on behalf of another:

- Building Board of Appeals
- Design Review Board
- Historic District Commission
- Liquor License Review Committee
- Planning Commission
- Zoning Board of Appeals

Rationale: Quasi-judicial boards and commissions, such as the Zoning Board of Appeals and Building Board of Appeals, as well as boards and commissions that take quasi-judicial actions, or are required by Michigan law to make recommendations to the Council, should be able to make their decisions independent of the influence of individual Councilmembers. Under this rule, a Councilmember may file a petition or an appeal with a listed board or commission and may send a representative to act on his or her behalf for the petition or appeal.

Source: Michigan Case Law.

Example: A Councilmember shall not appear at a Liquor License Review Committee and speak on behalf of, or against a bar regarding a liquor license renewal.

COUNCIL ETHICS RULE 14 – ENFORCEMENT

Proposed Rule: Any violations of the Council Ethics Rules shall be provided in writing to the Council Administration Committee. The enforcement of these rules shall be provided by City Ordinance.