

COUNCIL ADMINISTRATIVE RULE –ADMINISTRATIVE RESPONSIBILITY

Proposed Rule – A councilmember shall not encroach on administrative responsibilities. City Council provides direction to the City Administrator, who then provides direction to staff. A councilmember shall not give orders or directives to staff, either publicly or privately. Councilmembers may make inquiries or exchange or request information according to the “Interaction with City Staff” guidelines developed by the City Administrator.

Rationale – The daily business of government involves responding to correspondence, emails, and constituent requests. Establishing a practice of how to handle these items ensures fair treatment among all members of the governing body. Councilmembers shall follow the “Interaction with City Staff” guidelines stated in the “City of Ann Arbor Elected Officials Handbook”.

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 should not contact the Director of Human Resources about a personnel issue involving a City employee.

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

Placeholder.

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 prohibited -to disclose by statute or fiduciary duty or other 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

Examples:

A Councilmember shall not disclose, for example, the following:

- a) Investigating records compiled for law enforcement purposes, as set forth in MCL 15.243(1)(b).
- b) A record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime as set forth in MCL 15.243(1)(c).
- c) Records or information specifically described and exempted from disclosure by statute. MCL 15.243(1)(d)
- d) Information or records subject to the attorney-client privilege as set forth in MCL 15.243(1)(g).
- e) Appraisals of real property to be acquired by the City until conditions set forth in MCL 15.243(1)(j) are met.

A Councilmember shall not disclose matters discussed in closed session, as governed by the Michigan Open Meetings Act, including but not limited to :

- a) Labor and negotiation strategy connected to a collective bargaining agreement;
- b) Possible purchase or lease of real property;
- c) Matters regarding trial or settlement strategy in connection with pending litigation;
- d) Material exempt from discussion or disclosure by state or federal statute.

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 or the benefit of others. 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 City 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 Conflict of Interest policy 2.3, para. 3.4
Act 196, MCL 15.342 (3)
Model Ethics Code, Rule 11
Act 388, MCL 169.201 (1) (Michigan Campaign Finance Act)

Examples:

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

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

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

A Councilmember may not intervene directly with a police officer concerning a ticket given to a resident as it would be an improper use of the Councilmember's position and improper use of personnel on behalf of another person. (However, it would not be improper for a Councilmember to raise a policy issue concerning policing practices with the Council, Police Chief, or City Administrator.)

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 entire 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 unsolicited 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). Therefore, 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 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 12 – ENFORCEMENT

Proposed Rule: Any alleged 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.