



Legislation Text

File #: 18-0963, Version: 1

An Ordinance to Replace Previously Repealed Chapter 9 (Model Neighborhood Policy Board) of Title I of the Code of the City of Ann Arbor with a New Chapter, Which New Chapter Shall be Designated as Chapter 9 (City Seal and Flag) of Title I of the Code of the City of Ann Arbor (Ordinance No. ORD-18-17)

The City’s flag and seal are symbols of, and have value to, the City. Vendors and potential vendors to the City, and other third-parties, however, use these symbols for things like proposals or bids to the City, usually without any City permission.

Federal trademark law does not entitle the City to any protection of these important symbols. Accordingly, if adopted, this ordinance will define and describe the City’s seal and flag (1:240A), make both the exclusive property of the City (1:240C), designate the City Clerk as the custodian of these symbols (1:240B), and limit and otherwise regulate their permissible uses (1:240C, 1:240D, 1:240E).

The ordinance will provide that any violations of it will be civil infractions, punishable by civil fines of not more than \$10,000.00 (1:240F).

Prepared By: Matthew Rechten, Senior Assistant City Attorney

Reviewed By: Craig Hupy, Public Services Area Administrator

Approved By: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-18-17

First Reading: June 18, 2018

Public Hearing: July 2, 2018

Approved: July 2, 2018

Published: July 9, 2018

Effective: July 19, 2018

CITY SEAL AND FLAG

AN ORDINANCE TO REPLACE PREVIOUSLY REPEALED CHAPTER 9 (MODEL NEIGHBORHOOD POLICY BOARD) OF TITLE I OF THE CODE OF THE CITY OF ANN ARBOR WITH A NEW CHAPTER, WHICH NEW CHAPTER SHALL BE DESIGNATED AS CHAPTER 9 (CITY SEAL AND FLAG) OF TITLE I OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That previously repealed Chapter 9 (Model Neighborhood Policy Board) of Title I of the Code of the City of Ann Arbor be replaced with a new Chapter 9 (City Seal and Flag) of Title I of the Code of the City of Ann Arbor to read as follows:

CITY SEAL AND FLAG

**1:240A. - Definitions.**

(1) *City seal* means the official seal of the City of Ann Arbor, which was re-adopted by Resolution R-340-7-74 (7/29/74), or any prior official seal, including any cut, facsimile, reproduction, incorporation, likeness, or derivation thereof, which consists of a circular seal consisting of two concentric circles with the image of a burr oak tree in the center of the inner circle with the wording “Founded 1824” and “Incorporated 1851” within said circle, circumferentially written and centered over and under the burr oak tree respectively, and with the wording “City of Ann Arbor” and “Michigan” within the annulus, circumferentially written and centered over and under the burr oak tree respectively, and the face of which is substantially as set forth below:



(2) *City flag* means the official flag, or any prior official flag, of the City of Ann Arbor, including any cut, facsimile, reproduction, incorporation, likeness, or derivation thereof, which is a rectangle having a height-to-width ration of 3:5, that is white, with three horizontal yellow stripes separated by two white stripes of equal width horizontally across the center third of the rectangle, with the City seal centered vertically and horizontally in the left half of the rectangle and covering the stripes, and which is substantially as set forth below.



**1:240B. - Custodian.**

The City Clerk or his or her designee is the custodian of the city seal and city flag.

**1:240C. - Use of city seal and city flag for official use.**

- (1) The city seal and city flag are the exclusive property of the City of Ann Arbor.
- (2) The city seal may be used by city employees and elected or appointed city officials in connection with the performance of official city business or city sanctioned events, including but not limited to, placement of the city seal on city vehicles, equipment, stationery, the city flag, city websites, handouts for city training sessions, city brochures, city presentations, city uniforms and city issued articles of clothing, city news releases, programs and bulletins, city-sponsored events, and city memorabilia used to promote the city.
- (3) The City Clerk and his or her designee is authorized to use the city seal on any ordinance, resolution or other instrument approved by the city council or executed by the Mayor, or other city officials, and to use the city seal to authenticate official documents in the conduct of official city business.
- (4) The city flag may be flown or otherwise displayed by elected or appointed city officials, and by city employees in connection with official city meetings, functions, and events.

**1:240D. - Other approved uses.**

- (1) The Mayor may approve other uses of the city seal or city flag by any person for the following purposes, provided that such use promotes the interests of the city and is not detrimental to the image of the city:
  - (a) In an encyclopedia, dictionary, book, journal, pamphlet, periodical, magazine or newspaper incident to a description or history of the city seal;
  - (b) In a library, museum or educational facility incident to descriptions or exhibits relating to the city seal or the city; or,
  - (c) In a theatrical, motion picture, television, or similar production exhibited for a historical, educational or other non-commercial purpose.
- (2) Before any person may use the city seal or city flag pursuant to this section, the using person must:
  - (d) Agree that the proposed use of the city seal or city flag shall conform to the permitted uses set forth in the preceding subsection;
  - (e) Submit samples of all documents, goods, and other materials upon which the city seal is to be used sufficient to demonstrate that the proposed use of the city seal or city flag is a faithful reproduction and has not been altered in any manner;

(f) Acknowledge the right of the city, at all reasonable times, to inspect any item upon which the city seal is used to ensure that the city seal or city flag is being used appropriately in an unadulterated form; and,

(g) Execute an agreement approved by the City Attorney containing such terms as he may require.

(3) Any approval for use of the city seal or city flag under this section shall not be assignable or transferable.

(4) Any approval to use the city seal or city flag under this section shall be limited to only the event or item for which the approval is granted.

(5) If a person who is authorized to use the city seal or city flag pursuant to this section breaches any provisions of any agreement for its use, the City Attorney shall serve written notice of such breach upon the person with a demand to take appropriate and immediate affirmative action to cure such breach. Any failure to cure the breach to the city's satisfaction shall be grounds for the city's termination of permission to use the city seal or city flag and the City Attorney shall pursue all steps reasonably necessary to restrain the improper use of the city seal or city flag.

(6) The city may revoke a person's previously authorized use of the city seal or city flag under this chapter upon finding false or inaccurate information was submitted by the person to the city or that the person violated any provision of this chapter.

#### **1:240E. - Prohibited uses.**

The use of the city seal or city flag by any person for the following, or for any use not expressly approved or authorized by this chapter, is prohibited:

(1) In support or opposition of any candidate for elective office, referendum, initiative, or ballot measure or in any candidate or committee campaign literature;

(2) Except expressly provided by this chapter, in connection with any advertisement or promotion for any product, business, organization or service whether offered for sale, profit, or without charge;

(3) On any written or printed materials that are not official city publications, including proposals or other materials that are submitted to the city for any purpose; or

(4) On any written or printed material designed, calculated, intended or likely to confuse, deceive or mislead the public or cause the reader of such written or printed material to believe it to be an official city publication, including circulating or distributing any such written or printed material or to suggest or assert any city support or endorsement of any product, goods or services.

#### **1:240F - Offense.**

Each violation of any provision of this chapter shall be a civil infraction, punishable by a civil fine of not more than \$10,000.00.

**1:240G - Severability and conflicts.**

If any part or portion of this chapter is, for any reason, held or found to be unlawful or unconstitutional by any court of competent jurisdiction, then such part or portion shall be deemed separate, distinct and independent parts or portions and, to the fullest extent lawful, such holding or finding shall not affect the validity of the remaining parts or portions of this chapter. All ordinances or parts of ordinances in conflict with any of the provisions of this chapter are hereby repealed.

Section 2. This Ordinance shall take effect on the tenth day following legal publication.

**CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of July 2, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on July 9, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk