



AGENDA OF THE ETHICS BOARD

THURSDAY, MAY 12, 2022, 5:00 PM
Virtual Meeting. Public may join via Zoom.

A. Zoom Meeting Instructions.

- I. This item contains Zoom information for the May 12th Ethics Board meeting, instructions, and a link to the Virtual Comment Form.

B. Roll Call.

- I. William Vande Castle, Chair; Aaron Weinschenk, Vice Chair; Alder Bill Galvin; Cheryl Renier-Wigg; Said Hassan; Janet Hathaway

C. Approval of the Agenda.

- I. Approval of the Agenda for the May 12, 2022 Ethics Board Meeting.

D. Approval of Minutes.

- I. Approval of the Minutes from the April 28, 2022 Ethics Board meeting.

E. Regular Business.

- I. Consideration with possible action on General Ordinance 18-22, repealing and recreating Chapter 2, Article IX, Green Bay Municipal Code, relating to Ethics.

F. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.

- 3) **QUORUM:** Please take notice that a majority or quorum of the Common Council will attend this Ethics Board meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) **REPRESENTATION:** The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Ethics Board 5/12/2022

Zoom Meeting Information

Join Zoom Meeting

<https://us06web.zoom.us/j/85784478631?pwd=M3IKZjFsQVZSSWIHYWlkdmRkeHRWQT09>

Meeting ID: 857 8447 8631

Passcode: 249864

One tap mobile

+19292056099,,85784478631#,,,,*249864# US (New York)

+13017158592,,85784478631#,,,,*249864# US (Washington DC)

Dial by your location

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 857 8447 8631

Passcode: 249864

Find your local number: <https://us06web.zoom.us/j/85784478631?pwd=M3IKZjFsQVZSSWIHYWlkdmRkeHRWQT09>

Public Comments

If you wish to speak at this public meeting or leave a comment, please fill out the online [Comment Form](#) prior to the meeting.

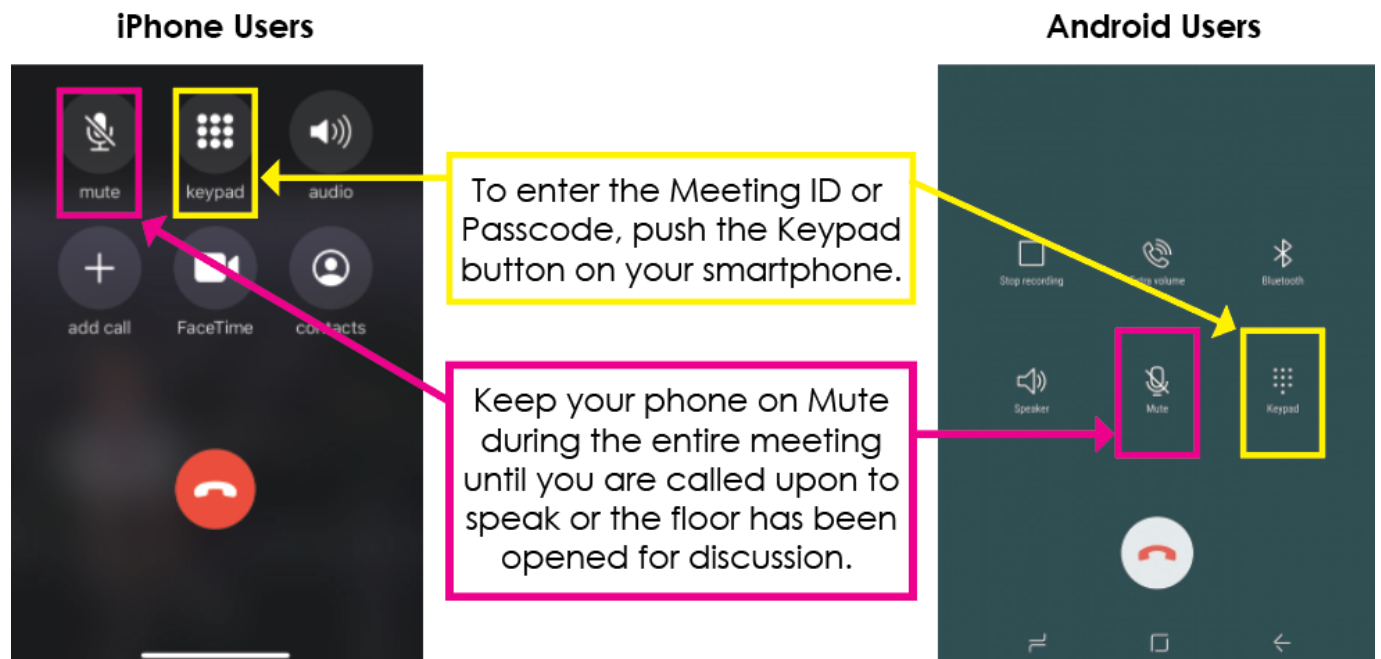
Additional Information

1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must state their name and address for the minutes.
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order Newly Revised 12th edition*.
2. Please log into the Zoom meeting at least 10 minutes before the meeting begins to ensure a proper connection and that your technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
3. Once you are in the meeting please mute yourself.
 - a. You may unmute yourself when you are called upon to speak.
4. Waiting room
 - a. When you call in or connect via web or Zoom app, you will be placed in a "waiting room."
 - b. The meeting host will then admit you to the meeting, and mute you upon entrance (you will still be able to hear and or otherwise observe the meeting).
5. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You'll receive another email confirming that you're registered for the meeting.
 - b. If you're using a phone, your registration will be tied to an email.
6. Raising your hand
 - a. Committee/Commission/Board members—you can either use CivicClerk and request to speak or you can also utilize the "raise your hand" tool in the Zoom platform (you'd need to use a computer or tablet) to let the host know you would like to speak. You can also un-mute yourself and start speaking.
 - b. Persons with items on the agenda or other interested parties—you can also utilize the "raise your hand" tool on the Zoom platform via computer or mobile device. You will be allowed to speak once the committee, commission, or board has moved to "open the floor for interested parties to speak." Once discussion on your agenda item has concluded, the host will mute you, unless the committee opens the floor again.
7. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—in advance of the meeting, please download the Zoom Meeting app by using either the Apple Store or the Play Store. You will be asked to input your name, to identify you for the meeting.
 - d. Computer—you can access the meeting through a web browser by clicking on the meeting link, or through the Zoom Meeting app. If using the app, please download it in advance of the meeting. You will be asked to input your name, to identify yourself for the meeting.
 - e. For tablet and computer users--if you download the app you may be asked to verify your email.

8. Zoom etiquette
 - a. Muting yourself when you're not speaking will prevent your background noise from interfering with others' ability to listen to and participate in the meeting.
 - b. If you're using a telephone, please identify yourself with your phone number and state your name and address before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourself.
9. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee/commission/board meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching a Common Council meeting live on YouTube will see a gray screen with the City logo during closed session.
10. Persons interested in attending anonymously or listening to the meeting may call in by dialing *67 followed by the phone number in the Zoom Meeting Information box.

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not wish to speak, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button





MINUTES OF THE ETHICS BOARD

THURSDAY, APRIL 28, 2022, 5:00 PM
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INSTRUCTIONS.

I. This item contains documents which provide call in information and instructions for the Zoom meeting.

B. ROLL CALL.

I. William Vande Castle, Chair; Aaron Weinschenk, Vice Chair; Alder Bill Galvin; Cheryl Renier-Wigg; Said Hassan; Janet Hathaway

Present: Chair William VandeCastle, Vice Chair Aaron Weinschenk, Alder Bill Galvin, Cheryl Renier-Wigg, Janet Hathaway.

C. APPROVAL OF THE AGENDA.

I. Approval of the Agenda for the April 28, 2022 Ethics Board meeting

Moved by Ald. Bill Galvin, seconded by Staff Cheryl Renier-Wigg to approve the agenda.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

D. APPROVAL OF MINUTES.

I. Approval of the Minutes from the February 24, 2022 Ethics Board meeting

Moved by Ald. Bill Galvin, seconded by Aaron Weinschenk to approve the minutes from February 24, 2022.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

E. REGULAR BUSINESS.

1. Deliberation with possible action on the Ethics Complaint filed by Kimber Rollin against Mayor Eric Genrich under the City of Green Bay Code of Conduct for Elected Officials

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Board will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Moved by Aaron Weinschenk, seconded by Board Member William VandeCastle to enter closed session.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

Moved by Staff Cheryl Renier-Wigg, seconded by Board Member William VandeCastle to return to regular session.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

Moved by Aaron Weinschenk, seconded by Board Member William VandeCastle to approve Findings of Fact, Conclusions of Law, and Decision.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

2. Schedule next Board meeting for discussion of revised ethics ordinance

Next Ethics Board meeting will be May 12, 2022 to discuss revised ethics code

F. ADJOURNMENT.

Moved by Aaron Weinschenk, seconded by Staff Cheryl Renier-Wigg to adjourn.

Motion Passed.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway, No-None, Abstain- None.

VERBATIM MINUTES

- Go ahead.

- All right, so we're ready to start?

- Hmm.

- Do we have a quorum?

- Yes.

- All right, very good. So, we are started, this is the city of Green Bay Ethics Board meeting for Thursday, April 28th, 2022. This meeting is being conducted via Zoom, and we have an agenda. We've got roll call electronically. So, we'll move into first action item here, which is approval of the agenda. You all would've received that in your packet. Are there any additions or modifications to the agenda?

- No.

- Hearing none, is there a motion to approve?

- No, move.

- Is there a second?

- Second.

- We have a motion and a second to approve the agenda for the April 28th, 2022 meeting of the City of Green Bay Ethics Board all in favor, signify by saying aye.

- [Panel] Aye.

- Aye.

- Any oppose? Hearing none, motion carries. Item D, approval of minutes from the February 24th, 2022 Ethics Board meeting. That was also in your packet. Are there any additions or corrections to those minutes? Good, hearing none, I forgot, is there a motion to approve?

- Motion to approve.

- Is there a second? All right, you have a motion and a second. And I'd just like to say, having read through those minutes, Aaron, nice job conducting that meeting. That was a complicated set of procedural things to go through and it was done very well, nicely done, very good. All right, all in favor of approval of those minutes from February 24 signified by saying aye.

- [Panel] Aye.

- Any opposed? Motion carries. Item E. Excuse me. Deliberation of possible action on ethics complaint filed by Kimber Rollin against Mayor Eric Genrich under the City of Green Bay Code of Conduct for elected officials. So, we will be considering going into closed sessions, so, I will read that provision from the statute. It states the following, "The board may convene in closed session pursuant to section 19.85 .8. of the Wisconsin statutes for the purpose of deliberating concerning the case, which was the subject of any judicial or hearing before that governmental body. The board will thereafter reconvene an open session pursuant to 19. of the Wisconsin statutes to take action on any items discussed and close the session if appropriate and to consider the remainder of the agenda." And just before we take a vote, I'm going into closed session, I'd like to say that as chair, I think this meeting was scheduled sooner, I know attorney May was out of town for a while and then I ended up being out of the office for most of March and early April. So, this was as soon as we could get it available when have a quorum, so my apologies. So, we've a consideration to go into closed session is there a motion to go into closed

session?

- Motion.

- Alright, I'll make the second for that. And so to do that, we need a roll call vote. So , you wanna call the roll on that?

- You bet. Alder Galvin.

- Aye.

- VandeCastle.

- Aye.

- Miss Reiner-Wigg.

- Aye.

- Mr. Weinschenk.

- Aye.

- Ms. Hathaway.

- Yes, aye.

- That passes, it's five to zero.

- All right. So, as soon as we get everybody separated in their appropriate rooms, we'll go into closed session.

- Okay and I'm going to do breakout rooms this time, so that I don't have to leave my office 'cause I gotta keep running.

- Okay. Very good. We are coming out of closed session, is there a motion to return to open session. Cheryl. All right, you have a motion and I will make the second to come out of closed session. All in favor, signify by saying aye.

- [Panel] Aye.

- All right. Any opposed? Motion carries. We are back in open session. All right, for the record, we've been in closed session in a discussion. Is there a motion from the board with respect to the findings and conclusions of law and decision that was discussed with the changes?

- I'll make the motion.

- And I will second that motion. So, the motion on the floor is to approve the findings-

- Bill Lindsey?

- We're good, thank you. I'm just making sure it was a motion to approve.

- Yeah, motion to approve, yes. The findings of fact conclusions of law in decision of the Ethics Board in regard to Ms. Rowland's complaint against mayor Genrich with the changes that were discussed in closed session. So, we have a motion and a second, any discussion? Hearing none, all in favor of the motion signify by saying aye.

- [Panel] Aye.

- Any opposed? Hearing none, the motion carries. So, based on the discussion in closed session, we will be issuing a full set of findings of fact conclusions of law and a written decision regarding those findings and conclusions but the substance of that decision is that because the complaint was found to be deficient under the provisions of section 8 of the code of conduct for the city of Green Bay elected officials and because it alleges actions that are not encompassed by the code of conduct, that complaint is hereby dismissed. And again, the full findings of fact, be a document about four pages in length listing the findings and the conclusions of law that, that decision was based on, as soon as the revised draft that was discussed in closed session tonight is made available, it will be entered into the record and provided to all the parties. All right. Anything further on this issue from the board before we move on to item two and regular business? Hearing none. Okay, item two, schedule the next board meeting for discussion of revised ethics ordinance. Lindsey, is that something you wanna work out with the board as to when we could get together next or do you wanna set a date now?

- I would like us to or like you all to discuss a date that works. I wanted to do this while attorney May was here because he's been on outside counsel working on the revisions but we're very excited 'cause we're very close on presenting you with our ethics ordinance.

- Okay.

- And I will defer to attorney May but I think, relatively soon or relatively quick turnaround time is appropriate.

- Okay.

- As far as when we would be ready to bring this back. So, it's really going to depend on everyone's availability as far as that goes. We typically try for Thursday evenings at 5:00, if that continues to work for everyone.

- Yeah.

- Yeah, if we are gonna do that, I would suggest if it works in people's schedules, either May 12th or May 19th.

- The 19th doesn't work for me.

- What time are we thinking?

- At 5:00 again. Sorry, Alder, I couldn't hear you.
- I was just mumbling.
- Oh. You're allowed.
- Yeah, the 12th, is fine.
- 12th, works for me as well.
- And for me.
- Okay.
- Yep, 12th, is fine.
- Great, looks like we have a date.
- Fantastic.
- Lindsey, has this ordinance been drafted in a rough form already or is this like discussion starting from square one?
- No, it's been- Well, attorney May, do you wanna speak to it?
- Sure, it has been drafted. We've gone back and forth. I've had several consultations with the city attorney's office on the draft. And we would like to have to you hopefully, well, ahead of that meeting a copy of the draft and we're including some commentary on what is the change, if any, from the existing code? If there's a change, where did it come from? And why do we think it's important? And hopefully if you get it it'll give you some time to think about that and be ready to discuss it. I'm sure it'll take more than one meeting for the board to go through it and figure out where we go with it. But I think the attorneys are pretty confident that we're in a state where probably sometimes next week, we can get that out to you.
- Very good. That's something that we've been waiting for, for at least five years.
- Five.
- If not longer.
- I won't say anything about the liquor laws.
- It's next I promise.
- I hope I'm still here by then.
- I've said that to you, how many times now though?

- Yeah, I could have lost this time and then what would that have accomplished?
- Yeah, there you go, yeah.
- What was you asking about Alder Gavin?
- I asked to have the liquor laws revised.
- Oh my God.
- About five, six years ago.
- Yeah, that's a real, well, yeah. I won't comment.
- Yeah.
- Yeah. Okay, so we've got a date for the meeting. Anything more on that issue before we move to adjournment? No. Is there a motion to adjourn?
- Yes.
- Got a motion, is there a second?
- I'll second.
- All right, motion to adjourn is second. All in favor of adjournment, signify by saying aye.
- [Panel] Aye.
- Looks like the motion carries. Thank you all very much for your time tonight. And hopefully we will get a new updated current code of conduct here shortly. So, very good. Thank you all. Very good. Have a good night.
- [Panel] Goodnight.
- Thank you all, goodnight everyone.



Report to the
Ethics Board
of the City of Green Bay

MEETING DATE

May 12, 2022

PREPARED BY

AGENDA ITEM # E.1

Consideration with possible action on General Ordinance 18-22, repealing and recreating Chapter 2, Article IX, Green Bay Municipal Code, relating to Ethics.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. DRAFT Revised Ethics Code with comments

DRAFT -- GENERAL ORDINANCE NO. 18-22

**AN ORDINANCE REPEALING AND RECREATING
CHAPTER 2, ARTICLE IX, GREEN BAY MUNICIPAL CODE,
RELATING TO ETHICS**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 2, Article IX, Green Bay Municipal Code, is hereby repealed and recreated to read:

ARTICLE IX. Ethics.

Sec. 2-321. Declaration of policy.

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. To assist in attaining these goals, there is established a Code of Ethics for all City officials, including members of boards, committees, and commissions, and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions which are incompatible with the best interests of the City and by requiring such officials and employees to disclose personal interests, financial or otherwise, in matters affecting the City. The purpose of this code and the rules and regulations established hereby are declared to be in the public interest. This article may be called the "Code of Ethics."

Comment: No change from current sec. 2-321, but see new sec. 2-328(c).

Sec. 2-322. Responsibility of public office.

Public officials and employees hold office for the benefit of the public. They are bound to uphold the state and federal constitutions; to observe the highest standards of law in the exercise of the powers and duties of their office; to impartially carry out the laws of the nation, state, and City; to discharge faithfully the duties of their office regardless of personal considerations; and to recognize that the public interest must be their prime concern.

Comment: No change from current sec. 2-321, but see new sec. 2-328(c).

Sec. 2-323 Definitions.

Definitions. As used in this section:

(a) *Anything of value* means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the City, money or items which are permitted and reported under 2-324(i), political contributions which are reported under Wis. Stats. Ch. 11, or hospitality extended for a purpose unrelated to City business by a person other than an organization.

(b) *Associated*, when used with reference to an organization, includes any organization of which an individual or a member of their immediate family is a director or officer or owns or controls, directly or indirectly, and severally or in the aggregate, at least five percent (5%) of the outstanding equity. Notwithstanding the foregoing, an elected official or employee who is appointed by the Mayor or approved by the Council to serve as an officer or board member of a private non-profit organization, or a public committee or board, does so in their official capacity as a representative of the City and, as such, is not "associated" with the private or public organization.

(c) *Board* means the Ethics Board.

(d) *City-Related Purpose* means those purposes authorized by the Common Council of the City, its boards, commissions, or committees.

(e) *Covered Official* means and includes all persons who are covered by and subject to this Code. Covered Official includes:

(1) All elected officials of the City.

(2) All City employees.

(3) All members of City boards, authorities, committees, or commissions, including subcommittees and ad hoc committees.

When a part of this ordinance only covers some Covered Officials, the ordinance will so state.

(f) *Economic interest or financial interest* means a business or cause in which a person or their immediate family member has a concern, responsibility, share, right, or title in the ownership of property in a commercial or financial undertaking which relates to the source, production, distribution, or use of the person's or immediate family member's income, wealth, or goods, including debts, or which affects or is likely to affect the welfare or the material resources of the person or immediate family member.

(g) *Immediate family* means 1. An individual's spouse or designated family or domestic partner, or 2. An individual's relative by marriage, lineal descent, or adoption, or any similar step relations of any of the above.

(h) *Organization* means any public or private, profit or non-profit, religious, educational, charitable, or political organization or entity but does not include governmental bodies.

(i) *Personal interest* means any interest greater than nominal, direct or indirect, arising from blood, marriage, adoption, guardianship, or designated family or domestic partner relations or from close business, political, or other associations.

Comment: *This section is new. It takes some definitions spread out in the existing Ethics code and adds others taken from municipal codes or the State Code, Sec. 19.42, Wis. Stats. Unlike some codes, the definition of “immediate family” does not include a requirement of any level of financial support. The new definitions use the phrase “Covered Official” for persons subject to the Code.*

Sec. 2-324 Standards of Conduct.

(a) *Financial gain.* No Covered Official may use their public position or office to obtain financial gain or anything of value for the Covered Official's private benefit or that of their immediate family, or for an organization with which they are associated. This subsection does not prohibit an elected official from using the title or prestige of their office to obtain contributions permitted and reported under Wis. Stats. Ch. 11.

Comment: *This section replaces sections of old sec. 2-325 with language more precise and more commonly used in Ethics Codes.*

(b) *Offer, solicitation, or acceptance of anything of value.* No person may offer or give to any Covered Official, directly or indirectly, and no Covered Official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the Covered Official's vote, official actions, or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the Covered Official. This subsection does not prohibit a Covered Official from engaging in outside employment, except as may be prohibited elsewhere in this chapter.

Comment: *This section replaces the ambiguous prohibition in former sec. 2-325(c)(3). Note that the question of whether a gift may violate this section is an objective standard (“reasonably be expected to influence”) and is not to be judged by the subjective belief of the Covered Official.*

(c) *Conflict of interest.*

(1) No Covered Official may:

- a. Take any official action affecting, directly or indirectly, a matter in which they, a member of their immediate family, or an organization with which they are associated has a financial or personal interest.

- b. Use their office or position in a way that produces or assists in the production of a benefit, direct or indirect, for them, a member of their immediate family either separately or together, or an organization with which the Covered Official or an immediate family member is associated.

- (2) This subsection does not prohibit a Covered Official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses or prohibit a Covered Official from taking official action with respect to any proposal to create, modify, or repeal a City ordinance, resolution, or matter benefiting the public.

Comment: *This section is new. It is modeled on sec. 19.59(1)(c), Wis. Stats., part of the state law on local government ethics limitations.*

(d) *Outside employment.*

- (1) No Covered Official shall engage in or accept private employment, or render service for a private interest, compensated or uncompensated, when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair such Covered Official's independence of judgment or action in the performance of such duties.
- (2) No City employee shall engage in non-City related activities for which compensation is received for so many hours or to such an extent as to interfere with the proper performance of the duties and responsibilities of their official position.
- (3) All Covered Officials shall disclose to their supervisor or, in the case of a Covered Official without a recognized supervisor (such as elected officials or committee members), to the City Clerk, any outside employment by a third party other than the City.

Comment: *This section expands upon the prohibition in former sec. 2-325(c)(1).*

- (e) *Contracts or leases.* No Covered Official, member of a Covered Official's immediate family, nor any organization in which the Covered Official or a member of their immediate family owns or controls at least five percent (5%) of the outstanding equity, indebtedness, or voting rights may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from funds administered by the City, unless the Covered Official has first made written disclosure of the nature and extent of such relationship or interest to the Common Council, the Board, Commission, or Authority, and to the department acting for the City in regard to such contract or lease. In addition to such disclosure, the Covered Official shall recuse themselves from taking any actions in their official capacity with respect to the contract. In addition to any other remedy under this Article, any contract or lease entered into in violation of this provision may be voided by the City in

an action commenced within 3 years of the date on which the City or any agent of the City discovered that a violation of this subsection had occurred. Nothing in this provision affects the application of Wis. Stats. § 946.13, as amended from time to time, relating to a Covered Official's activity concerning a direct or indirect financial interest in a proposed City contract.

Comment: *This section is a modification and expansion of sec. 2-325(d). It provides for the ability to void a contract entered into in violation of the section.*

(f) *Misuse of information.* No Covered Official shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. This includes information protected by attorney-client privilege or discussed in a closed session. No Covered Official may use or disclose information gained in the course of or by reason of their official position or activities in any way that could result in the receipt of anything of value for themselves, for a member of their immediate family, or for any other person or entity if the information has not been communicated to the public or is not a public record.

Comment: *This section expands on the current prohibition in sec. 2-325(c)(2).*

(g) *Appearance before City bodies and in other proceedings.*

(1) (a) No elected official shall appear on behalf of private interests with or without compensation before any City entity nor represent private interests in any action or proceeding against the City.

(b) No member of any board, committee, commission, or authority of the City shall appear on behalf of private interests with or without compensation before any board, committee, or commission of which they are a member nor represent private interests in any action or proceeding against the City which involves, is related to, or arises out of the work or jurisdiction of the board, committee, commission, or authority of which they are a member or negotiate with any Covered Official in connection with any such matter.

(c) No employee of the City shall appear on behalf of private interests with or without compensation before any entity for or with which they work nor appear on behalf of private interests, with or without compensation, in any action or proceeding against the City.

(2) These provisions shall not apply to the appearance of any Covered Official when subpoenaed as a witness by a party involved in litigation which may also involve the City nor to employee representatives of a certified labor organization representing any group of City employees.

(3) An elected official may appear before any City entity and confer with any Covered Official on any matter in the course of their duties as a representative

of the electorate or in the performance of public or civic obligations; however, they shall not accept any compensation therefore.

- (4) A Covered Official may appear without compensation before any City entity on any matter involving their own property or interests.

Comment: *This section is new. It limits the ability of Covered Officials to appear on behalf of third parties before the City. For employees and members of boards or commissions, the limitation only covers those areas of authority of the employee or member.*

(h) *Solicitation of funds.* No Covered Official shall solicit private donations or funds for any City-Related Purpose unless authorized to do so in their official capacity by ordinance, resolution, or rule of the City. Any Covered Official who receives funds for any City-related purpose shall file a report of the receipt and expenditure of such funds with the City Clerk within 30 days thereof. Nothing contained herein shall limit the statutory powers and authority of any public official, nor shall the provisions of this subsection prohibit the private solicitation of funds by any person or public official for any charitable, campaign, or other private purpose.

Comment: *This section essentially tracks existing sec. 2-325(c)(4).*

- (i) *Honoraria and Gifts.*

(1) No Covered Official shall accept any honoraria, gifts, or Anything of Value except as allowed by this section.

(2) A Covered Official may accept gifts unrelated to a Covered Official's relationship to the City (e.g., birthday presents from family members).

(3) A Covered Official may not accept, and no person shall offer, a gift of more than de minimus value if the gift could be perceived by a reasonable person as likely to affect the judgment or actions of the Covered Official, or be perceived by a reasonable person as a reward for official action taken or an inducement to take official action by the Covered Official.

(4) A Covered Official may accept reimbursement from a third party for the costs of attending a conference or other event approved by the City, provided that the reimbursement of costs does not exceed the reimbursement that the Covered Official would receive from the City. A Covered Official invoking this provision shall obtain approval of the City Finance Director and file a report of reimbursement with the City Clerk. The Covered Official may only seek reimbursement from the City or a third party when they are attending a conference or engaged in other activities that are primarily for the benefit of the City and not for their private benefit.

(5) In the event a Covered Official receives a gift that is not allowed under this Article, the Covered Official shall either (a) pay to the City Treasurer the value of the gift, (b) give the gift back to the person who made the gift, or (c) give the gift to a non-profit organization such as a homeless shelter.

Comment: *This section is new. It covers explicitly the general ban on acceptance of gifts by Covered Officials, and the sometimes troublesome issue of Covered Officials accepting reimbursement from third parties for the costs of attending conferences or other events.*

(j) *Use of City property.* No Covered Official shall use or permit the use of City-owned vehicles, equipment, materials, or property by or for the benefit of any private person or entity, or for personal or financial gain, unless authorized to do so by City ordinance, resolution, or rule.

Comment: *This follows existing sec. 2-324. The language about arbitrarily or capriciously treating one person differently than another was removed due to concerns about enforcement and possible misuse of the section.*

Sec. 2-325. Post Employment Limitations.

(a) No Covered Official shall, within 12 months of leaving their position with the City, engage in lobbying as set forth in Ch. 10, Art. XIII of this Code before any Covered Official, City entity, board, committee, or commission with which the Covered Official had duties or authority while with the City.

(b) Employment within the City. No Alderperson, during their term of office, or one year thereafter, is eligible for any employment with the City, whether by regular employment or contractual services. Exceptions to this policy will be as follows:

(1) Where an Alderperson is appointed to fill a vacancy for another elected office or is elected;

(2) Where an Alderperson serves as a poll worker or at any other position which has a stipend of less than \$1,000.00 a year; or

(3) Where an Alderperson is appointed to a post with an 80 percent majority consent of the Council.

Comment: *The first paragraph is new and is a limitation on lobbying for one year after leaving City government. The second paragraph is former sec. 2-325(c)(5).*

Sec. 2-326. Political Activity.

(a) No employee while on duty or on official City business shall, for the apparent purpose of influencing the outcome of any referendum or improving the chance of election of a person seeking elective office:

(1) Wear or display any campaign material.

(2) Distribute any campaign literature.

(3) Solicit, receive, or give subscriptions, contributions, or service for any candidate or referendum position.

(4) Actively campaign for or against any candidate or referendum position.

(b) No employee shall wear or otherwise use official uniforms, insignia, seals, etc., in political ads or for the purpose of influencing an election or referendum unless the image of such official emblem originates from a publicly available image first made public during the course of City employment and not for purposes of a campaign.

(c) No employee shall use their employment or any indicia of such employment with the City as a means of endorsement of any candidate or referendum.

(d) No employee shall in any way coerce or attempt to coerce subscriptions, contributions, or service from other employees in support of a political party or a candidate for elective office or for or against a referendum position, or retaliate against or reward an employee for refraining from participating in any political activity. All persons are subject to the limitations on solicitation from public employees contained in Wis. Stat. § 11.1207.

(e) This subsection does not apply to a response by a legal custodian or subordinate of the custodian to a request to locate, reproduce, or inspect a record under Wis. Stat. § 19.35, if the request is processed in the same manner as the custodian or subordinate responds to other requests to locate, reproduce, or inspect a record under such section or to an employee providing other information within the knowledge of the employee by virtue of their City position, if such information is made equally available upon request to any other person.

(f) Persons subject to the federal Hatch Act shall comply with all applicable provisions of the Act.

(g) *Solicitation of staff forbidden.* Elected officials shall not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc.) from City employees. City employees may, as private citizens within their constitutional rights, support political candidates, but all such activities must be done away from the workplace.

Comment: *This section pulls together a number of provisions in the City's Ethics Code and Code of Conduct. Almost all ethics codes have similar limitations on political activity.*

Sec. 2-327. Disclosure of Interests.

(a) *General filing for employment or appointment.* A person elected, appointed, or hired for any office or position of employment or appointed to any board, commission, or authority set forth below shall file initial and amended statements of economic interest as required by the provisions of this section.

(1) Elected officials.

- a. Mayor.
- b. Municipal Judge.
- c. Alderpersons.

(2) Appointed officials.

- a. Assessor.
- b. City Attorney.
- c. Chief Building Official.
- d. Chief of Operations.
- e. City Clerk.
- f. Comptroller.
- g. Director of Community and Economic Development.
- h. Director of Parks, Recreation, and Forestry.
- i. Director of Public Works.
- j. Fire Chief.
- k. Police Chief.
- l. Treasurer.
- m. Zoning Administrator.

(3) Employees.

- a. Human Resources Manager.
- b. Mayor's Chief of Staff.
- c. Purchasing Manager.

(4) Boards.

- a. Board of Review.
- b. Ethics Board.
- c. Zoning and Planning Board of Appeals.

(5) Commissions.

- a. Annexation Commission.
- c. Plan Commission.
- d. Police and Fire Commission.
- e. Room Tax Commission.
- f. Traffic, Bicycle and Pedestrian Commission.
- g. Water Commission.
- h. Neighborhood Preservation Commission.

(6) Authorities.

- a. Economic Development Authority.
- b. Housing Authority.
- c. Redevelopment Authority.
- d. Transit Authority.

(b) *Filing statement of economic interest with Clerk.* Within seven (7) days after such person becomes a candidate for any elective City office enumerated in this section, or within seven (7) days of appointment to such office, such person shall file a statement of economic interest with the City Clerk.

(c) *Form of statement.* A person filing any statement of economic interest under this section shall file the statement on a form prescribed by the Ethics Board and shall supply the following information to the Board.

(1) *Interest in land.* The statement shall include a description of all parcels of real estate within the City and adjoining towns or villages in which the person owns any interest, including an option to purchase, except for homestead property.

(2) *Corporate interests.* The statement shall identify all of the person's corporate interests in any business organization, either as an owner, part owner, partner, or silent partner, in which such individual owns more than two (2) percent of the outstanding stock or more than two (2) percent of any other business ownership that is doing business with the City in an amount in excess of \$5,000.00 annually.

(3) *Other financial holdings.* The statement shall identify any of the person's other stock or securities or other financial holdings of any type exceeding \$10,000, but excluding personal checking and savings accounts, money market funds, and any funds held in a bona fide retirement account.

(d) *Amended statements.* Any person required to file a statement hereunder shall not be required to file an amended statement unless that person undergoes a change in those economic interests that are required to be disclosed by this section. Such person shall file the amended statement in the manner prescribed by subsection (b) of this section within seven days of the date of any change in circumstances requiring filing thereof. In addition, all persons covered by this section shall file an annual update of the statement no later than January 31 of each year. The City Clerk shall send a notice to all person covered by this section no later than December 15 of each year, notifying them of the annual update requirement.

Comment: *This section picks up most of the language in sec. 2-326 of the existing Green Bay Code. It modifies current law to require filings within 7 days of the application of this section to an individual and provides that persons covered are to update their filings annually.*

Sec. 2-328. Exceptions.

(a) Nothing in this ordinance shall be construed to cover the actions of a Covered Official in the official action of approving or amending City ordinances, resolutions, or rules, unless such official action was accompanied by a violation of this ordinance.

(b) Nothing in this ordinance shall be construed to limit the authority of Covered Officials to approve the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses.

(c) Sec. 2-321 and 2-322 are aspirational statements to be used in application and interpretation of this Article. No complaint may be filed under this section solely claiming a violation of either of those two sections.

***Comment:** This section is new. The first two paragraphs are common in ethics codes to make it clear that certain routine acts of Covered Officials are not to be considered as violations. The final section solves the problem of persons using the first two sections of the Code as a basis for a complaint, as they are aspirational and not to be used to create a violation where no other provision was violated.*

Sec. 2-329. Disclosure and Recusal.

(a) Any Covered Official who faces a situation where they may violate the standards of conduct in sec. 2-324, or any other provision of this Article, shall determine whether such a situation requires the Covered Official to make a disclosure or to recuse themselves. Such disclosure or recusal shall take place before the matter comes before the Covered Official.

(b) The Covered Official shall disclose any conflict or financial interest or other section of the Code, as well as whether they can reasonably and objectively determine that the situation presents a tangential interest that will not conflict with their official duties, and will not influence their actions, independence, or judgment.

(c) The Covered Official need not make a disclosure if they recuse themselves. If the Covered Official determines that the situation reasonably and objectively would conflict with their official duties, or impair their independence, action, or judgment, the Covered Official shall recuse themselves from any action with respect to the matter. Recusal is accomplished by announcing that the Covered Official will take no part in the proposed action, will not discuss it with any person, will not attempt to influence any other person's action, and effectively will be absent when any aspect of the matter is considered.

***Comment:** This section is new. The City's Code had no provisions directing when and how an official was to disclose a potential conflict, or in what instances recusal was required, or what recusal means. It adopts an objective standard ("reasonably and objectively would conflict with their official duties, or impair their independence, action, or judgment") to determine when recusal is necessary. Note, however, that the Code retains the current situation that the determination is to be made by the Covered Official. Nobody may force an official to recuse themselves. The remedy if an official violates this section is to file a complaint with the Ethics Board.*

Sec. 2-330. Ethics Board: Composition and Duties

(a) There shall be an Ethics Board which shall consist of five (5) regular members and one (1) alternate member: one (1) Alderperson; one (1) City officer or employee; and four (4) residents of the City, one of whom shall be an alternate who shall vote

only in the absence or abstention of a regular member. Each member shall be appointed by the Mayor and subject to confirmation by the Common Council. The resident members shall not be City employees. Terms of office of citizens shall be three (3) years, and shall be staggered, so that no more than two (2) appointments are made annually. The Ethics Board shall elect its own Chairperson and Vice-Chairperson annually. If any member of the Ethics Board petitions the Board for a hearing and advice regarding their own conduct, or if a complaint is filed against a member of the Ethics Board, such member shall not be eligible to sit in their own case, and the alternate shall substitute therefor when the need arises. In the event a complaint is filed against two (2) or more members of the Ethics Board, the Personnel Committee shall sit as the *ad hoc* Ethics Board for any hearing.

(b) The City Attorney shall advise the Ethics Board and shall not represent any person requesting an advisory opinion, filing a complaint, or subject to a complaint before the Board. The City Attorney may, but need not, issue advisory opinions to any City employee covered by this Article who has a question as to the applicability of any portion hereof themselves. If the facts stated in the request for an Advisory Opinion are accurate, and the requestor follows the advice of the City Attorney, it will be *prima facie* evidence that no violation of this Code took place. The City attorney may refer any request for an advisory opinion to the Ethics Board.

(c) The Ethics Board may issue advisory opinions. Any person who questions whether they may be in a position to violate the Ethics Code may make a request for an Advisory Opinion. The Board may issue an opinion to the person. The opinion shall be public, unless the person in the original request asked that it be a confidential inquiry. Any opinion issued in response to a request for a confidential inquiry may be made public by the person obtaining the opinion. The Board also may issue summaries of confidential opinions written to protect the identity of the person requesting the opinion. If the facts stated in the request for an Advisory Opinion are accurate, and the requestor follows the advice of the Ethics Board, it will be *prima facie* evidence that no violation of this Code took place.

(d) Any adult resident of the City of Green Bay may file a sworn complaint alleging that a Covered Official has violated the Ethics Code. The complaint shall be filed with the City Attorney. Upon receipt of the complaint, the official(s) complained of shall be provided a copy and be given no less than 15 nor more than 30 days to file a written response.

(e) *Jurisdictional Hearing.* The Board shall hold a jurisdictional hearing to determine if the allegations of the complaint merit a hearing on the substance of the allegations. The Board shall assume that allegations in the complaint are true unless contradicted by public documents of which the Board may take notice. The Board shall determine if the complaint alleges sufficient provable facts to have an evidentiary hearing. No evidentiary testimony shall be taken at a jurisdictional hearing. Any complaint filed more than one hundred eighty (180) days after the actions alleged, or

the discovery of those actions by the complainant who acted with reasonable efforts to discover the actions, shall be summarily dismissed at the jurisdictional hearing.

(f) If the Board determines an evidentiary hearing shall be held, both the complainant and respondent may present such relevant evidence as will assist the Board in determining if a violation of the Code occurred. The City Attorney shall advise the Board in any hearing. If the Board finds no violation, it shall dismiss the complaint. The Board may adopt rules and procedures to govern complaints, responses to complaints, the conduct of hearings, and any other matters relevant to its duties.

(g) If the Board finds the complaint was brought in bad faith, with no reasonable basis in fact or law, or with an intent to harass the respondent, the Board may recommend that the City Attorney bring an action in the name of the City in municipal court for a forfeiture not to exceed \$200.

(h) If the Board finds that a violation occurred, the Board may take any of the following actions:

(1) Find that any violation was *de minimis* and no further action is needed.

(2) Issue an order censuring the respondent for the violation.

(3) Recommend that the Common Council censure the respondent.

(4) Recommend that the City Attorney bring an action in municipal court in the name of the City, seeking a forfeiture of not less than \$100 and nor more than \$500 per violation.

(5) Recommend that the Common Council or other appropriate authority remove the respondent from public position for cause.

(i) Except as provided for a confidential advisory opinion, the meetings and records of the Board are subject to the Open Meetings Law and Public Records Law.

(j) The Ethics Board may recommend amendments of the Ethics Code to the Common Council.

Comment: *This section takes some provisions from the existing Code of Ethics (sec. 2-328), the Code of Conduct, and adds some common provisions from other codes of Wisconsin municipalities. It retains the jurisdictional hearing and the power to recommend amendments to the Code. It changes the period during which a complaint is to be brought from one year after the alleged violation to 180 days after the violation and retains the discovery rule. It clarifies that complaints may only be filed by residents of Green Bay.*

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. Effective date. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2022.

APPROVED:

Mayor

ATTEST:

Clerk

MM/ljm

06/xx/22