



# **AGENDA OF THE ETHICS BOARD**

**THURSDAY, AUGUST 18, 2022, 5:00 PM**

**Virtual Meeting. Public may join via Zoom.**

**A. Zoom Meeting Instructions**

- I. This item contains Zoom information for the August 18, 2022 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; Janet Hathaway

**C. Approval of the Agenda.**

- I. Approval of the Agenda for the August 18, 2022 Ethics Board Meeting.

**D. Approval of Minutes.**

- I. Approval of the Minutes from the May 12, 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 (referred to staff at the May 12, 2022 Ethics Board Meeting).

**F. Adjournment.**

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT [www.greenbaywi.gov](http://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 8/18/2022

### Zoom Meeting Information

#### Join Zoom Meeting

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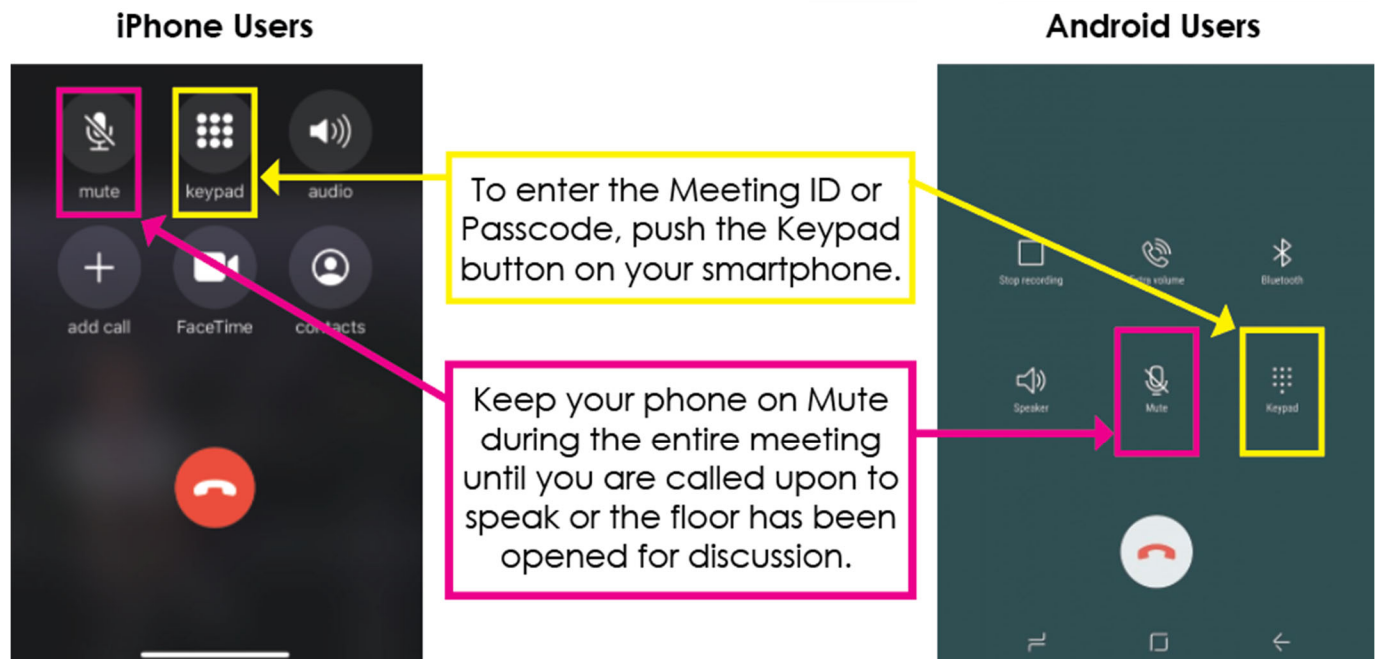
## Additional Information

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 12<sup>th</sup> 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.
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  - b. Land line
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  - 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.
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  - 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.
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  - 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.

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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, 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

Present: Bill Galvin, William Vande Castle, Cheryl Renier-Wigg, Aaron Weinschenk, Janet Hathaway

### **C. APPROVAL OF THE AGENDA.**

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

Moved by Staff Cheryl Renier-Wigg, seconded by Ald. Bill Galvin to approve. Motion Passed.

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

### **D. APPROVAL OF MINUTES.**

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

Moved by Aaron Weinschenk, seconded by Board Member William Vande Castle to approve. Motion Passed.

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

### **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.

Moved by Board Member William Vande Castle, seconded by Aid. Bill Galvin to refer to staff. Motion Passed.

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

## **F. ADJOURNMENT.**

Moved by Staff Cheryl Renier-Wigg, seconded by Janet Hathaway to adjourn. Motion Passed.

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

## **VERBATIM MINUTES**

- My computer. There we go.

- All right, very good. All right, so let's call this meeting to order. This is the City of Green Bay Ethics Board Meeting for Thursday, May 12th, 2022. It's 5:00 p.m and we've got roll call which is electronically done here in CivicClerk. So we'll move on to approval of the agenda for this May 12th, 2022 Ethics Board Meeting. Is there a motion to approve the agenda?

- Motion to approve.

- Approve.

- All right, we have a motion and a second. Are there any additions or modifications to the agenda? I'm hearing none. So all in favor of approving tonight's agenda, signify by saying aye.

- [All] Aye. Any opposed? Motion carries. Moving on to the minutes. Is there a motion to approve the minutes from the April 28th, 2022 meeting of the Ethics Board if those documents or those minutes were in your packet? Is there a motion to approve?

- Motion.

- Right, we have a motion. I'll second. Are there any additions or modifications that anyone would propose. Hearing none. All in favor of the approval of the minutes from the April 28th, 2022 meeting of the Ethics Board, signify by saying aye.

- [All] Aye.

- Any opposed? Very good, motion carries. Now on our purpose for being here tonight, our regular business, deliberation with possible action on general ordinance 18-22, repealing and recreating chapter two, article nine of the City of Green Bay Municipal Code, a code relating to ethics. And attorney May is the scrivener of this documents so I'll open the floor, motion to open the floor and turn it over to him to begin addressing where we are with this.

- He's standing in his staff so you don't have to open the floor.

- Okay, very good. Then I withdraw that statement.

- I resign my second.

- All right, Mike, it's yours.

- Okay, well, I'll start talking. What you have in front of you is a draft of a complete repeal and recreation of your ethics code. And what we did when we put this together, this is a result of a number of meetings between me and the members of the Green Bay City Attorney's Office, in which we considered various options and proposals and went through them and changed them back and forth and we eventually got to this point where we thought we're far enough along that we ought to take it to the board and try and get some feedback, see what they like, what they don't like, et cetera. When we put this together, we decided to put just a short commentary after each section to give you a general idea of where we were going with it. I have to admit, we didn't try to cover every item or every change we may have made that would've been quite voluminous. And some of the sections you'll see are new. So the whole thing is something that you probably didn't have in your old code. What we were aiming at here was more precise than your existing code which frankly has a few parts of it that are pretty clear but some parts of it that are not, and something that I thought at least more closely tracked with either the state law or other ethics codes that I've seen in other municipalities. And then we also had to tweak it for very specific things that Green Bay had that other people did not add it in there. I can either go through each section or start to ask questions. The other point I would make is that, oh, Lindsay, whether you've talked to the board about this at all, this does not deal at all with the code of conduct for elected officials. And we specifically left that out in my recommendation, and I think what the city attorney's recommendation is that should be taken out of the jurisdiction of the Ethics Board. It should be rewritten and given to the elected officials and they should be the ones who have their code and they should have specific remedies that they can impose such as censure, something like that for a violation of their code of conduct. But most of the things in that code of conduct were just not appropriate in my view for an ethics board to be dealing with in most situations. So that has not been done yet, but I think that's the second shoe is that once we get this going is to take that code of conduct, make the recommendation to, I don't know if that it would go through this Ethics Board or right to the council. Look, this is your code for how you're supposed to behave, it really isn't about the usual way we think of ethical rules. This is about personal codes of conduct. Since it's yours, you should be the ones who figure out a way to enforce the code of conduct. So that's one of the things that you don't see in front of you because we really didn't think that it was appropriate for a board of ethics to be dealing with some of those that are sort of personal and/or are political type issues in terms of what they do. With that said, whatever you wish to do, we can either go through section by section or I can open it up for questions. I don't know how much time people have had to review it. If they have specific questions, whatever is your desire.

- Go ahead, Bill.

- Yeah, I read through it and I also had a very good phone conversation with Attorney Mather today which really made it a lot easier for me to read through it and understand what was going on. I don't have any specific questions but you never know, someone starts talking about something and it might put a little bell off in my head, and then, I don't, have a question. But I like what you're talking about, separating the two from each other. I felt many of the complaints that's come before this committee in the last six years have not belonged in front of this committee. And I also agree with your comments about the code of conduct but I don't wanna get off the highway

here and start talking about that. But I agree with you. I think that there needs to be a system worked out where the council holds itself and other elected officials responsible in whatever way they can work out amongst themselves to everyone's satisfaction. But overall what I'm seeing here, this is dramatically better than what we've been dealing with since I got on this committee six years ago. So I applaud you and everyone else that's been involved with this.

- Again, I would add, I don't have any, I've read through it, and I'm familiar with the state code provisions, state statutory provisions that are referenced in here. And I think this goes a long way to cleaning up a lot of the ambiguities that we had in the old code. Unless anybody's got some specific questions for attorney May, I would suggest maybe Mike, that you kind of go through and maybe give us some highlights of some of the major changes that are in here 'cause I know there's a few so--

- Yeah, okay, the first two sections are the same except there's a provision later that says these two sections are really sort of aspirational and to be used in guiding an interpretation. We don't want somebody filing a complaint solely based on either of these two sections. There has to be some other violation of the code. And I think that's consistent with the way this board has acted and the way other boards that I've seen have acted. The definition section is expanded because you really didn't have a lot of definitions in your code. And when you had them, they were sometimes spread out in different part. You know, you'd get to a separate section of the code and would say for this these words mean this in this section. So we tried to pull those to those in here. We used a new term called covered official. So that's the new term that here, which includes elected officials, employees, and members of city boards, commissions, and committees. And there are some sections that will, for example, only cover an elected official or city employees, and it'll say so when it does that.

- Can I jump in?

- Yup.

- I think covered official does not, like when I was reading through that, when I see covered official, I don't think that's an employee. To me that was a little confusing when you're going back and forth between officials and employees. Like officials to me always mean like board members or council members or... So when I was reading through the whole document, you know, there were some places where it was covered official which would mean both of them, and some were employee, right?

- Right.

- So what are non employee?

- If we were refer to them, we would probably refer to members of boards, committees and commissions.

- Okay, okay. It's just that was a weird term to me, so duly noted.

- We can use a different phrase if you want.

- Well, I was just throwing it out there. Like I'm not gonna die in the sword for me on this, but I don't know if anybody else had those thoughts when they read through it. I'm of course a city employee so I have my head in a different place when I'm reading this probably than you guys are, but...

- Yeah, you normally don't think of a city employee as a city official, but that's why we gave it the name covered official. I can't remember where I know Madison uses a term incumbent, which I think is even more confusing 'cause...

- I agree.

- You don't think of an employee at all as an incumbent. I can't remember where I got covered official or this, I think we talked around what we wanted to use and came up with this as probably being the best way to describe it.

- Okay.

- But it makes sense because a covered official is anyone that the ethics code applies to, correct?

- Yep.

- So if Cheryl's acting as an ethics committee member, she's a covered official. If she's not acting in her role as a committee official, then she's not a covered official.

- Well, she...

- But I am though.

- She is, she's a city employee and is covered to the extent that's covered city employees.

- Yes. Yes.

- So I'd be two ways, but like just a straight employee, straight not sitting on any boards or commissions. Is a covered official, correct?

- Correct.

- Yes.

- Like Lindsay.

- Yeah. Like when we had that fire official, that personnel that came before the committee to ask for permission to get involved in a private business on the side, he's a cover official.

- Yeah.

- Yes.

- I'm throwing it out there.

- If something like, I mean, would covered individual work or something like that where if, is that just the issue is the official part of it.

- I think the name official, I don't think employees would relate to the name official. I don't think any employee you've talked to would consider themselves an official.

- I do.

- Well in the definition does it say all city employees are considered covered officials?

- It does.

- It does.

- What about if we change it to covered person?

- Could be covered person.

- Yeah. I mean, that makes it like you're a covered person if you're an employee or you're an official or member of a board or an authority.

- I don't have a problem with that. I can see what the point you're making Cheryl, so we can do that. So that'll just be a universal change throughout the provision.

- And then I had another one on that page. The anything of value, that's really meant to be an ambiguous thing. I'm assuming, because anything of value is right. Like, okay. Let me tell you, my experience as an employee from the law department from a gazillion years has been \$50. If this is less than \$50, it's not considered anything of value.

- Yeah.

- Right. It was kinda a weird thing 'cause you know, in your role as employees, people give you stuff. So I don't know if it would be easier to add, and this is addressed further on in this document as well. I have some notes, like I went to an event where I got a whole lot of beef. Which was more than \$50. Like I brought that into the office, I cut it up and I brought it into the office and I shared it with the department. But did I have to do that? Like I think it would be good to have some clarification for employees who get gifts in the field. What you do with them.

- Yeah.

- Would that apply to this ordinance? Or would that be more of a, well, we don't really have...

- I think there's a section in here on honor area which may cover some of the questions you have,

but the debate on this is exactly the one you identified. When you say anything of value or nominal value, which we use elsewhere, you can define it as a dollar amount, which means you can only get a series of \$50 gifts. So they can't give you 60 bucks, but they can give you two \$30 gifts.

- Or you leave it undefined and you begin to define it as people ask. For myself, I used a really strict definition I didn't want a cup of coffee from somebody because I didn't want that ever to be seen. When you get gifts, there's a specific provision later that governs what you're supposed to do with those and we can talk about that when we get to honor area. But the basic rule is you're not supposed to accept it unless it's nominal. If you get something that's more than nominal, you either give it back. Say, I can't take this. I'm under the city's ethics code, I can't accept a gift this large.

- Right.

- Or you pay the city for it. You write a check to the treasurer then you have no benefit. You've eventually essentially have bought it. Or I think I put it in here, but you take it to a nonprofit. Like if it's food, take it to one of the soup kitchens or something and they can hand it out to people.

- Yep.

- The whole point.

- Written out somewhere. Maybe it's a personnel policy procedure, not this.

- It is in here.

- Yeah. Let's maybe we can find it quickly. Section on...

- It's on page six. I just wanna add while you're all flipping to that section, this actually was something that we discussed with attorney May, because we had had those of you that were on the committee or the board will remember. We had had that issue with the question of alders being able to provide a \$5 gift card or something to employees. And the board had tasked our office with me looking into what the if there was a dollar amount cut off and what that would be. And so in discussions with attorney May. This is what we kind of came around to was from our perspective, we didn't necessarily want to put a dollar amount on it because that's something you guys can do. But we definitely just... that this is a way of codifying that earlier discussion and the research that I found as a result of that, because we weren't really sure at the time that we had that discussion. So that's why it was particularly important for us to include it here in a more explicit kind of way.

- Okay.

- And if you look on page six, under this section on honorary gifts at the bottom. First section says you can't accept any honorary gifts or anything of value, except as allowed here. Two, you can accept gifts that are totally unrelated to your position as a covered person.

- Right.

- And three, this I think is the key one, you can accept and no person is to offer a gift of more than de minimis value if the gift could be perceived by a reasonable person, not by the person who's getting the gift, but by a reasonable person as likely to affect the judgment or actions of the covered person, 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. That doesn't give you a dollar amount, but it allows this board to say, look, you're accepting \$55 worth of beef that's gonna be seen as something that might impact the way you're gonna treat that person. Maybe a cup of coffee, isn't it? Maybe a double cappuccino from some place that's worth 20 bucks is I don't know. But that's sort of the test that I put in here. And it sort of is the gift of a value that it might be perceived by not the person getting it, but by the fable reasonable person as likely to affect your judgment or is being seen as perhaps a reward for something you have done or might do in the future.

- Yeah. Okay.

- Then this section also has a long thing on accepting reimbursement of the cost of defending a convention or something from a third party, which is normally a thorny issue. And it's set up essentially that you aren't too accepted from a third party, unless you've advised, I think I put the financial finance director of what you're gonna get. The amount can't exceed the cost that the city would cover for you to attend the convention.

- Oh right. 'Cause you're making some bank on.

- Right. So you can't say, well, they're willing to cover my cost by the way I'm in the penthouse suite and I've got an unlimited budget for food. Well, no, that isn't the amount the city would cover. But if it's limited to what the city would cover, there's no, really no real benefit for the covered person. They're getting what they would get from the city and in fact, there is a benefit to the city. The city doesn't have to pay the money out of its treasury it's paid by some third party. So there's a benefit to the city, no benefit to the covered person and so that's when it's allowed. And I think I included say that they're supposed to... Yeah. File a report that you got reimbursement, file it with the city clerk. So again, sunshine like that is good. Sixth page.

- So this is good, 'cause it actually then defines that a little bit more for employees, which I don't think it did before. Which just kinda left, open.

- Yep.

- Okay.

- If you get a gift that's not allowed under the article, you either pay the city treasurer for the value, you give the gift back to the person who made it or give it to a nonprofit organization and it says such as a homeless shelter.

- Okay.

- Again, the idea is to allow a way that you don't personally benefit from it. I don't know if I'd bring it to give to the employees, then everybody's benefiting a little bit. This gets very sticky and sometimes you just have to use a little common sense, like with Christmas gifts that get dropped off by somebody.

- Exactly.

- Now out at the front desk, you're gonna worry about a box of cookies. I generally don't. But I remember employee who got like a sort of like the beef that you're talking, they got one of these cheese and sausage baskets and they went online and it was lurk 125 bucks or something. And they said, I can't accept that. And I think they took it over to the soup kitchen or something like that.

- Yeah. I think people just drop 'em off.

- Yeah.

- One of those things.

- I was always the cookie tester.

- Pardon me?

- I was always the cookie tester.

- Oh good.

- So yeah. So that's a new section to talk about explicitly talking about gifts and how you decide when they're allowed and not allowed.

- Gotcha.

- Back to the definitions, the one I think I pointed out in the commentary and we went back and forth on it is, some codes and I think the state code, but I'd have to look talks about your relatives. And it says, if it's your son or your daughter or your parent and you aren't providing them with financial support, they're not covered by it. We didn't include that. I think that's kind of silly. I don't think you can be helping out your kid because you provide 48% of the support as opposed to over 50%. It still creates a conflict of some sort. Let me shut this off there. Okay. Then the next section tries to gather a number of provisions that were in some cases spread around the code or had been in the code, but didn't specifically call 'em standards of conduct. And there's one on financial gain, accepting something of value and as that same provision that if it looks like it could influence your official actions or considered as a reward, that's not allowed. There's this third section is on conflicts of interest, which is modeled on the state code. And I don't know whether, I don't know if you had anything this specific in the existing code. I don't recall seeing it. It tries to decide, define not to use your office for the benefit of your family or for organizations that you're associated with or to obtain a financial gain. And that really... I think this section is kind of the meat of the ethics code. We talked quite a bit about outside employment and what we should do. A lot of this comes

from your existing code. We added subsection three, I think was new about if you're gonna get some outside employment disclose it to the supervisor or if you don't have a supervisor to the city clerk. Just because then again, you're shining sunlight on it. The supervisor may say to the employee I don't think that's a good idea. That's gonna look like a conflict or you're trying to serve two masters or something like that. But the idea of we thought about, do you want to require everybody to file that? We weren't sure that we thought that was a little going a little too far, but disclose it to your supervisor or if you're just a committee member and elected official to the city clerk.

- Can you give me an example? I'm on page four. You're talking about outside employment.

- Yep.

- Can you give me an example of number one? Like, so this is really talking about people who have second jobs other than their city jobs, right?

- Yeah. Well, I would say somebody who works in the assessor's office and is also a real estate broker.

- Okay.

- That's the one that I always use as the most because how they wanna evaluate what they wanna sell a house for in terms of what their commission might be and what they think it would do in the market may conflict with what the proper assessment might be seen by the city. Now, theoretically you say, well, we're always looking for fair market value, but I think those are two very different viewpoints of the value of some property. So that's the kind of employment that might directly conflict.

- And the only way you know about that is if the employees disclose, which is why you've added three.

- Yes.

- So if you have a second job outside of the city, you should disclose that?

- Correct. And what that job is, so that it's on record. Okay. That goes to the clerk directly, it looks like.

- No, the supervisor of an employee.

- Yep.

- The clerk, if you don't have a supervisor. For example, if you're chair of the Ethics Board, you don't really have a supervisor, you should file city clerk.

- Gotcha. Otherwise it goes to the supervisor and then the supervisor just has it a record or gives it to HR or...

- They can do with it what they want. Supervisor should probably tell 'em if they think it's a problem.

- Okay. We don't do that now, right? I'm thinking I've never done as a supervisor. I've never asked for that second job. I mean, I guess I knew about some people, but we've never had that as official record.

- No, this is new.

- Okay.

- Some places do like PD does. So if you have outside employment outside of the police department, but yeah, by and large, this is not a requirement. This is actually like Alder Galvin brought up. This is kind of to address the type of situation or to at least bring into view the types of situations like the employee that came and asked if an outside employment would be a conflict. If you're disclosing that to your supervisor, whenever you get a second job or any other, any additional job the supervisor can say, well, I think that's a conflict you should go to the Ethics Board and make sure and then we kind of have it all kind of coming together.

- Gotcha.

- Yeah. And I'll be honest with you. When I was on the PD in 34 years, I was never made aware that I needed to get side jobs cleared by my bosses. I mean I taught at TC, I was a jewelry, I escorted jewelry dealers throughout the state. You know, I did things that were police related and things that were non-police related. But I think if and when this is passed, I think we need to send out maybe a bullet point not this whole code, unless they wanna look it up but some bullet points for all employees to be aware of, because I knew of someone with the water department that was doing plumbing on the side, which is, I guess, acceptable to a certain extent, unless like there was something ethical that came up with a job they were doing or not doing or something like that.

- And just to clarify for PD, that is actually there was a policy that was kind of loosely enforced, I guess. I don't know how recently, but a year or two or three, I don't know. I just time doesn't mean anything anymore. Not that long ago we passed up and we instituted an updated policy with PD to ensure that any outside employment, whether law enforcement related or not had to be reported. Just also because there are some positions where you don't want somebody like working a full shift and then going and working a second eight hour shift and then coming back, back in and driving a truck for DPW or something like that and not having had sufficient rest, those kinds of things.

- Yep. Are also the kinds of things we want to be kind of catching with something like this.

- Yeah. And I didn't even think about that, but that actually makes sense 'cause we struggled with officers that were working with two little sleep and they can take on the aspects of someone that's intoxicated while they're driving and other things.

- A question to think about here. And I don't know if we didn't talk about this, Lindsay. We put some of these comments in here. I don't know whether you plan on leaving those in there when this goes to the council, whether you wanna make them part of the legislative record, most actually being in the actual ordinance. In either event, I noticed that I didn't pull that sub three out here and highlight it. And I think we probably should 'cause that's a new provision. So that should have been put into the commentary.

- Yeah. I think that makes sense. I think also we will attach both a clean version of the ordinance and this version with the commentary for council so that they can see like, because we do wanna pass a clean version without the comments, but we'll make sure that they also have an Alder Galvan actually asked that we like highlight the section so that they're a little bit easier to pull out for the council when they're scrolling through, which is a great suggestion 'cause even I even did it for myself for my notes right now 'cause I make it easier. So yeah we'll definitely be providing council information so they can see, but we will include a clean version as well.

- Yep. Next section is pretty close to what you had before although it added that if there's a contract entered into, in violation of it, the city also has the right to void the contract, which I thought was a good idea. The misuse of information is pretty close to what you have now. This is, to me, a unique provision. I haven't seen this in other codes. I mean, I think it's a good provision. I think there might be some question as to whether or not you could always enforce it if there are first amendment issues that somebody might raise that this was a matter of public policy and I had the right to leak this to the press, even though the ethics code says I can't. But I understand the purpose of it and I think we had to leave it in there.

- Well, I there's been a lot of discussion. I think Lindsey can back this up at the council level about close session discussions and we've had some elders really doing what I perceive to be some thin ice to dancing around that restriction and they really don't want closed sessions, they really want that information out there. We've had a past Alder in the recent past who had an oops I think at least that's what I'll put it down to. But yeah, I have a real concern that eventually someone is going to release some information that they shouldn't just because they feel it's not right to have it enclosed session. And I think that needs to be spelled out clearly here.

- The next section is new. Again, I've seen this in other codes and it basically limits the ability of elected officials or members of boards, and here you split it out to appear in front of city boards on behalf of third parties. And while you're on a board, you can't be appearing in front of that board on behalf of a third person. And now it's limited to, if you're on a board, you can appear in front of other boards if you want, but not the one that you're on or the one that's within your jurisdiction and the same with city employees, you can't appear in the area that you work, but if it's totally unrelated, you can appear. And does have a provision that if you're appearing to get a variance to put a new deck on the back of your own house, you can do that no matter where it is, 'cause that's just something that you have the right to do as a citizen.

- So and this is an example again from the past and that's why I like it, and we can't always anticipate everything. And we certainly found that out with the old code and the old code of conduct and ethics. But so we had a city employee working for say a private company and they came before the protection and policy committee to get a liquor license. Would that be a conflict? Maybe acting as an attorney or something like that.

- Well, setting aside whether or not it falls under your lobbying ordinance, which I don't know enough about and whether that is it. So they're not an employee in the area that they're appearing in front of the protection service.

- Oh God, let's just throw it out there. Municipal judge, the side job with the Green Bay Packers and came before the protection and policy asking for a variance on liquor.

- Yeah, I would think that would be contrary to the code 'cause a judge is one of those officials like the mayor, council member, city attorney, there may be others, maybe finance director where their span of authority is essentially the whole city. The judge may have to deal with the question related to that liquor license or related to something else. So he should not be appearing in a private capacity on something that could possibly come before them, and that's the purpose of this section here. You have to judge the span of authority of the person appearing in front of the committee. And I always took the position that there are elected members of the council, the mayor, and certain other what I call the big officials like city attorney finance director, that their span of authority is the entire city and so they can only appear if it's on their own behalf to get something for themselves and then it's okay.

- That makes sense.

- Where are we?

- Can you talk to me about number three on page five on the bottom there? What are you saying with that?

- I think this is in the current code, but I'm not sure. This is simply to protect elected officials, that if they want to go to a committee to talk about a proposed ordinance or something like that,

- Yep.

- that they can do it as long as they're doing it as the public official and not doing it being paid by a third party to do it. And basically to protect their right, to talk about matters of public interests that might be before other committees.

- OK.

- I'm not sure it's necessary, but I've seen it in some places to, just to make that point clear so that somebody doesn't file against an Alder who shows up to say, I think this is a bad piece of legislation in front of the committee that's looking at it. And in your case, you've also got alders who are on these committees, who obviously are making the decisions. We've got a provision on solicitation funds against which is very, somewhat similar to what you have in your current code. I don't know if that, I think we may have added the provision about filing a report on the funds once, if you are allowed to solicit with the city clerk. I think we talked through the honorary and gifts already.

- Sorry. Just to answer the question that actually was already in the call.

- Okay.
- We just cleaned it up.
- Okay. On page seven, item J on use of city prep.
- Back up, can we back up to six?
- Sure.
- Before the covered official may accept reimbursement from a third party, for that cost of attending a conference. I just have a question. It further talks about a covered official invoking this provision shall obtain approval of the city finance director.
- Yes.
- And find the report of reimbursement. So that would go then that would not be handled internally by departments that would go straight to the finance director.
- That's what I...
- It's still that reimbursement? For whatever reason, I don't know what that would be. But with we're government employees, Mike, we don't really get to do that. Please find conferences. It's all boring training stuff, but if something were to happen that then it would just strictly you'd make that claim through the finance director for reimbursement purposes for the city clerk.
- No, you don't make the... you file with the finance director to say this third party is gonna reimburse me. Here's what they're gonna reimburse me. The finance director will look at that and say, fine, that's the same amount that we would give you for attending it so you're not making extra money on it.
- And so that now is done departmentally.
- Okay.
- That would all go through the finance director because if you travel to an outside conference, you fill out your sheets on whatever that is, hotel rooms and whatnot. And then it goes through our budget you know, like our department budget. Is that now changing? So it's gonna go straight through finance, I guess is my question.
- So my understanding is that your department director has to sign off and indicate like where in the budget it falls, but ultimately it is up to the finance director or their designee in this case, probably not the finance director, but perhaps somebody in payroll actually making the decision as to whether what's on the, like your supervisor does kind of the initial review, does this qualify? Are you whatever, are you entitled to it? And then before finance actually gives you any money back, they also have to do their own kind of review for other fiduciary reasons. And so that

already some element of it already does happen at the finance level. So if we wanna have an internal process where you go to your department director, who has to submit it to finance, 'cause that's how we do it now, we can certainly do that, but ultimately there needs to be that approval from finance.

- Ultimately finance is reviewing all of these travel things at that department.

- Anyway, yep.

- Yeah.

- Already doing that.

- Yeah. Just Cheryl, let me back up and make sure we're not confusing things. If you've got money in your budget to go to the assessor's training.

- Yeah.

- And so you're gonna go to the assessor's training and you put in what it's gonna cost and it's in the budget, your supervisor approves it and ultimately it goes to finance and they say fine, that's not what we're talking about here.

- Okay.

- We're talking about, you're gonna go to the assessor's Institute and the assessor's Institute is gonna pay your way. They're gonna cover your registration fee, they're gonna cover your lodging, they're gonna cover trying to cover meals, they're gonna cover all this stuff.

- Yep.

- You can only accept that money from that third person if you go to the finance director ahead of time and say, here's what they're gonna reimburse me, is this okay? And the finance director will say yes or no either that's fine, that's what you would get reimbursed from the city and then you would file a report with the clerk. So I think these situations are pretty rare where there's an outside third party, who's gonna provide the reimbursements. And that's all we're talking about here, 'cause if the city reimburses you again, you're just covering your costs and the city of budgeted for it. But if a third party is giving you the money, then it looks like, well, wait a minute, this is some group that is expecting some favor from them down the road, they're reimbursing their expenses. And the point is to have a check in here to make sure that it's okay if the third party does it, as long as it's nothing more than what the city would give you.

- Okay. And that's the finance that would review then.

- Right.

- Okay.

- Yes.

- Police officer is gonna attend a community policing conference. He clears it with his bosses, he's gonna go and the conference is short, some speaker. So to ask this person, if you wouldn't mind doing an hour long presentation and for that they'll pay for his conference fees, his meals and his hotel room and reimburse him for travel. Is that acceptable? I mean, technically it's a conference a third party and they're reimbursing this officer for his time merely because he speaks.

- Yeah. My position would be that that officer should still clear it with finance and file it to clerk.

- Yeah, absolutely. But it happens from time to time and so I think, it's kind like something that I don't think the average person would think about. They're like, oh, I'm saving the city money you know, 'cause they're not paying for my hotel, they're not paying for my meals, I'm not paying for the conference fee and I'm taking a city car anyway so they don't have to reimburse me for that. But you still think that not only should they get permission from the bosses to attend the conference and speak, but also go to the finance director and say, Hey, this is what they're doing.

- Right, to make sure that whatever they're being reimbursed is in line with whatever the city policy is. The purpose is to avoid... They're gonna cover your meals and you get to the best steakhouse in the town every night that's what we're gonna pay for you, which is probably not what the city would cover. But yeah, and that is when you speak, that's pretty common that at least say the conference fee will be waved or something like that.

- Right

- Yeah.

- Okay.

- Page seven, item J is a pretty standard one about use of city property. There was language in there about not arbitrarily or capriciously treating one person differently than another. I saw that as just being a can of worms. I don't know if that's ever come in front of you if somebody's filed a complaint based on that. But I looked at that language and I thought, boy, you you're really asking for somebody to use that as a political weapon of some sort.

- Yeah.

- And so got this and I didn't, that's a violation of the ethics code. Okay. The next section is on post-employment it added just the only thing that's added B is in your current code A it says that officials can't engage in lobbying for within 12 months and it just uses whatever the definition of lobbying is in your code and that's just, again, sort of a good government thing that you don't go right from being as the chair of the ethics committee to representing people in front of the ethics committee two days later that kinda looks a little suspicious.

- How do you... so I was thinking of it in this capacity. So I've worked in housing my whole career so I retire.

- Yep.

- But there's affordable housing legislation that's coming before city council. I'm not allowed then to speak before council in favor or not for that housing?

- Well, this is not that broad. This is not that broad. It depends on whether you qualify as a lobbyist doing that. And I don't know about your code, but most codes, you have to get paid to do that. Now, if it's part of your new job and it's part of what you're, then you might be a lobbyist and maybe you can't do it. Some codes have broader provisions. They just say, when you leave 12 years, you just stay away from the city, period. Don't appear at committee meetings, don't lobby, don't you know.

- That's crazy.

- Yeah.

- Well that's... yeah.

- People like me are passionate about city stuff so I would think that's if you retire or whatever. What would you do if someone did that? Like this is in this code, they're no longer employed with the city you can't fire them. Would you just, not allow them to speak at me? Like what is the..?

- No, what you'd probably do is look at some of the other, trying to what are some of the... we've got various penalties at the end.

- Okay.

- Including go city attorney could bring an action in municipal court, seek a forfeiture.

- Gotcha.

- So that would probably be it. There is an interesting existential dilemma about this is that, I've seen many ethics decisions where somebody brings a claim against somebody and by the time the Ethics Board gets around to dealing with it, that person is no longer employed and the board says, well, we don't have jurisdiction anymore. You know, we can't do anything about it. This one specifically says you can do it, something about it even if they've left. I don't know what would happen if somebody challenged the constitutionality or whatever the ability to do that.

- Right.

- We had that with the Gizima situation a couple years ago where there an ethics com code of conduct complaint was filed against him. And by the time it came to our board, he had lost the election.

- Yeah.

- And we were gearing up, there were all kinds of procedural things going on beforehand, but by the time we got to getting to a hearing, he was no longer an elected official so it was determined that we no longer had jurisdiction to do anything about it.

- Right. Yeah.

- The next section is on political activity, and I think it's pretty close to what you have now. I don't think we added too much that was new. Maybe the provision about the Hatch Act, but that's there that's the law anyways.

- We did have the Hatch Act in there?

- Pardon me?

- We did have the Hatch Act provision but this kind of pulls together parts of... we had some stuff like we had them into the two different places, some was in the code of conduct and some was in the code. So this just kind of consolidates everything. But between the two, largely this is all kind of just was already in existence, it just didn't all appear in the code.

- The next section is identifying those who have to file the disclosure of interest. I think about the only change we made in here was about the time to make the filing that some of them were like you had to do it before you were in office or something and some were after so it was all you made that seven days. And we also added that a requirement that you update your filing annually. You didn't have that in your code. Your code said, if there's a change, you have to update it. Well, a lot of people don't think of that, but if they get a note from the clerk saying, Hey, it's time to update your disclosure on an annual basis, then you'll go back and realize, oh, that's right, I bought another piece of property that I'm not living in so I better add that. So I think that was the main change here.

- We cleaned up some of the titles as well 'cause they were pretty outdated.

- Can I ask you on 10 under commissions? What the neighborhood preservation commission is?

- No, you can't ask me. I don't actually know. I'll find it.

- I've never heard of that, but maybe...

- That came outta your current code so I didn't ask the question either about these various commissions. I assume they were real.

- Yeah. I don't think the neighborhood preservation commission is real, but I don't know if you wanna add the public arts commission and the landmarks commission to that section under commissions or not?

- We sure do.

- That was commission was all preservation commission was all about though I guess.

- It must be a holdover from previous days 'cause it's no longer in our code. So we will take that out and I do think that's a good recommendation to include landmarks.

- There is two other commissions.

- Public arts.

- Landmarks.

- I think there used to be a historic preservation commission in the city and that's what the neighborhood was, yeah.

- That you think that's what it was?

- Think that's what.

- That one actually became the landmarks commission. That was the historic preservation commission was, is now the landmarks commission.

- Okay.

- It was overhauled.

- Gotcha. And then under authorities, it's actually the Green Bay housing authority. It just says housing authority, but it's actually, I mean, that's the name of it, the green committee.

- Technically for all the commissions boards committees, they all have Green Bay in front of them.

- Okay.

- It was something we took out when we were doing the reification, it was just part of the like superfluous language that we were eliminating.

- Gotcha.

- Janet, if you don't mind just talking about whatever you put in the chat just for public records purposes.

- Sure. I just went to the current code and copied out where has the definitions of lobbying in chapter 10, article eight, just so we know. And I just wanted to point out that lobbying they're describing it kind of differently than lobbyist, which is a compensated act where lobbying the way it's defined doesn't seem to be a compensated act. So I don't know if that's relevant or not relevant.

- Good point.

- Definitely something we can take a look at.

- What do you wanna do with that Lindsey? I mean, what did we say? We said engage in lobbying didn't we? Or did we say become a lobbyist?

- I gotta scroll back up here.

- We said engage in lobbying.

- So the one of the sections does say does... so okay. Largely the article about lobbyists rather does use the term lobbyists, the provision about conditions on lobbying or on part lobbyist participation actually refers to engaging in lobbying. And so that's section 10-545. And so you do have to include on your registration form, the amount of money that you do have to register, like to actually be considered a lobbyist under this article, you do have to register with the city and have documented the amount of compensation that you are receiving because it's defined in our code as something that you are receiving money for, those are the only people to whom that lobby section in the ethics code would apply.

- So is the question one of compensation or using one's knowledge to influence or potentially influence outcomes?

- I believe the intention is for it to be compensation based on compensation, because if you're somebody like Cheryl, who's coming in and talking about an area in which you have expertise, but you're just doing that outta the goodness of your heart because you live in the city and you have an interest in making sure that things go well in the city, that's fine. You can do that. But if you're doing it because you have a new job as a housing, something, I don't know what else you could do, Cheryl, but rule the world, I think. But you know, if in a new professional capacity, the organization is paying you to go to the council and say, I support this for whatever reason, most likely, because it benefits the business you work for now or something to that effect, that would be the kind of lobbying activity that we're seeking to prohibit.

- Yeah. Lindsay, we might wanna take a look at this as I'm looking at your definitions I just referenced the code. So the definition of lobbying itself as put up here, that makes no reference to be paid. Lobbyist does make a reference to being paid, but exempts people who are basically full-time lobbyists if you company and that's all you do is lobby, then you're a full-time employee and you're not considered a lobbyist. So I'm not sure what if we're trying to get it people who get paid for doing it, we might wanna say, act as a lobbyist instead of engage in lobbying. If we're trying to cover everybody, including Cheryl's goodhearted help for other people, then we would continue to use the phrase, just engage in lobbying. But I'm not sure which of those two we're aiming at. The one is much more expansive and that's a question whether you want try and have that limitation and whether you want it to be somebody who's paid with as a lobbyist is defined in your ordinance. That's a lot easier to figure out.

- Good point Janet.

- Very nice.

- I think we should change it to lobbyist. Like we can't restrict Cheryl from... Cheryl has rights as a private citizen. She can come before the council and because she's an expert on housing, say, I think this is a really great idea. That's is that lobbying for something? I mean, people do that all the time at council. So I don't think we wanna cover that.

- That was my question when I read that.

- Yeah. I think we want it to be more restrictive.

- If I definitely continue the conversation, my recommendation tonight on kind of the whole ordinance anyway, is that we would not make any final approval vote or anything tonight anyway. So I would just suggest that this be among the things that you direct us to look into a little bit more closely. I'm just toggling back before all of these different things it's definitely something that I need to wrap my head around a little bit better before I can even, I'll just defer to Mike on everything tonight.

- Yeah. Well, I flagged it as something that we need to look at because if you use the phrase become a lobbyist, that's much more limited than engage in lobbying. And you know, frankly, when I put this in here, I didn't go read your code. I just said, we don't want them to be lobbyist however you define it and that's a term of art that we have to be careful with. So I flag this as something we need to think about Lindsay.

- Thanks. And I've flagged it as well. It may be that I think it's probably long that we take a look at our lobbying ordinance as well. So I'll just make a note of that 'cause add it to the list. Behind Alder gal's ordinance on liquor licenses.

- There's some exceptions, one that deals with sort of common acts that members do that we don't think ought to be covered. And one I noticed before that the first two sections are aspirational and no complaint may be filed without some violation other than those sections. I think Lindsay, in that C on the top of page 12, I think the last sentence should say, no complaint may be filed under this article. You see where I am?

- Sorry. Can you gimme the page reference again, please?

- Right at the top, there's a sub C and these are some of the exceptions and that's the one that says those first two are aspirational used to interpret the ordinance and you can't file a complaint solely based on a violation of those sections. But I think can't file a complaint under this article, I think is what it should say.

- You're right. Thank you.

- I think that's really important to have, because people have been taking sections of the front end of the ethics code and saying, I don't think this person has integrity or something like that. Well, you could say that about anybody on anything. So I think that's really good to have that in there. That should probably in the ethics code for like the officials, should probably be something like that in there eventually. I mean the one we just got was a complaint with no reference to any

specific provision, which is like the mayor didn't have integrity when dealing with this issue.

- Yeah. That is going, I mean, our staff recommendation will, and it will be, I don't know if I said this already, that the code of conduct will not be coming back to the board that will actually be going to protection and policy because it's something that the council will be imposing against itself. It's not actually going to fall within the purview of the Ethics Board at all so we don't want you guys to even touch it so that we always have that separation between the two.

- Lindsey, can you tell me how someone would, if they feel an Alder had violated an ethic, like the code of conduct, what would that process be? Then they'd have to go to the city council, make a complaint to the city council?

- So yes. We haven't ironed out the complaint process yet because that's something that we want the committee to take a closer look at.

- Okay.

- So that's something that we'll be kind of out as we go, but as it's kind of preliminarily structured, you would inform either the mayor or the council president of the alleged violation, they would be responsible for investigating, determining whether there was any violation and then any consequences would kind of stem from there. As far as I think we have it right now, kind of tiered there's like an informal complaint, a formal complaint, and then a possible resolution for censure, and that could change subject to whatever PMPN council wanna do, and it's honestly just kind of in the infant stages at this point, because we haven't had input from anyone other than Mike and the law department. So we do need to get the stakeholders, which is council to really weigh in on that, because it is something that any formal action would require a vote by council. And so we wanna make sure that since it's the process that they'll be administering for themselves. We wanna make sure that they are the ones that are kind of driving the bus as far as what the actual enforcement mechanism will look like. Any complaints under it will not come before this board. That's like a deliberate line that we're attempting to draw between the two to avoid these sort of complaints that we've had recently, where they're based on the more subjective language in the code of conduct.

- I thought like the social media complaint we had on Alders handle their Facebook pages and that kind of stuff.

- That one is actually, and Michael probably get to this when we talk about the revisions to the part about the Ethics Board, but that's actually more of a jurisdictional question. And so that is not a social media type, a complete, like the one that was filed based on the social media allegations is really more of a first amendment question. And so it's not something that the board ever had jurisdiction over. And so that's why the way that we're setting it up now, that initial hearing, rather than just being a date where everybody gets together and we schedule the first evidentiary hearing, the initial hearing will actually be a jurisdictional hearing where if the board determines that you don't have jurisdiction, it gets dismissed there and it doesn't go any further.

- Gotcha.

- Couple...

- I don't mean to cut off my Mike's presentation for later.

- No, that's okay.

- I've got a question about, I don't see anything in here giving a timeline for filing a complaint.

- It's also in that jurisdictional section. I'm sorry, Mike, that I'm jumping in.

- It's at 180 days.

- Yeah.

- Instead of, instead of a year, it's six months.

- Okay. All right.

- I like that.

- Yeah.

- I'll keep charging ahead. Page 12 is a totally new section on disclosure and recusal. You really didn't have any provisions that gave guidance to members of boards, committees, or commissions or council members, or even employees on when they were in a situation where they had a conflict that would require them to either disclose it to somebody or actually recuse themselves from taking action. And this basically draws a line between it's a situation that reasonably and objectively would conflict with their official duties or impair their independence of action or judgment, then they have to recuse themselves. If they have some more tangential conflict and the one I often use is, I used to work for this company six years ago, but I haven't done anything with them in the last six years, I don't think that's sufficient that it's gonna affect my judgment and I won't recuse myself. And what recusal means. I've seen places where somebody says, yeah, I'm recusing myself and they participate in a debate or something like that. And you know, it's just gotta be clear that if you're recusing yourself, you're out. It retains what I've seen in almost all the body cannot force a covered person or an official to recuse. They make their own determination and that if somebody thinks they've made the wrong determination, the remedy is to file a complaint in front of you. And you might find that they did have a conflict, they should have recused and whatever remedy is appropriate at that point. The next section... Go ahead. Yep.

- So many times council members at council will say, just so everybody knows I'm I work for someone that is part of this organization and is asking for A, B and C, and so I'm gonna recuse myself. Do the council members have to give a reason why they're recusing themselves or can they just say I'm recusing myself?

- No, if you say I'm recusing myself on item 38, that's all you have to do.

- Okay.

- If you're gonna just disclose and not recuse, you've gotta tell what the relationship is and why it is such that it doesn't justify recusal. But if you wanna recuse yourself, you can just announce I'm recusing on item 36, and won't be participating in the debate or voting on that.

- All right. 'Cause we had an pass who would abstain from voting, so he didn't have to vote up or down. And then you could say, and later on, well, I didn't vote against it, I didn't add in that he didn't vote for it either, but he would just abstain to avoid that being found in favor or not in favor of a thing that was before the council.

- Well, assuming that person didn't have a conflict and...

- Well that's just it. I mean, what he was doing was he was avoiding being held responsible by his constituents for voting something up or down.

- Yeah.

- So he just didn't vote, he just let it right.

- Yeah. There's actually constitutional decisions about that you can't force a member of an elective body to vote.

- Okay.

- They have a first amendment right to abstain.

- All right. That's good information I have.

- Yeah. Okay. Then we get into the composition and duties of the board. I think most of this is similar to what you had. There's an expanded provision in sub B about the city attorney issuing advisory opinions. And it says the attorney May, but need not issue advisory opinions to any city employee who has a question as to the applicability of it. And if the city attorney gives the advice and they follow it's prima facie evidence of no violation. But the city attorney also has the right if he gets any request to refer it to the Ethics Board and say, I don't want to touch this. You want an advisory opinion, I'm sending it up to the Ethics Board. But to me, it's a situation. Some people will just call up and say, Lindsay, I got this situation, am I okay? And it may be obvious that they're okay or obvious that they're not okay and she can shoot off an email and say, here's the problem or no, I think you're good. And so you wanna have that option. On the other hand, Lindsay was very clear to me that there are sometimes we don't wanna issue an opinion and we want the board to have to take it up. So we put this in here, but it gives the city attorney the option of advising employees or the option of just saying, no, this has gotta go to the Ethics Board. It limits the people who can bring a complaint to an adult resident of City of Green Bay. I don't know if that's ever been an issue, but I don't think you want people coming in from outside the city and making complaints. It's got the section on jurisdictional hearing and basically a new 180 day statute of limitations. Goes on to state the various on page 14, the various actions that the board can take, even after they hold the hearing is Diminimus censuring the respondent council

represent censure. Bring an action and can make a recommendation that the person be removed even. It says the board may recommend amendments to the code. Somewhere in here, Lindsey, we added the authority, the board to make its own rules. Where is it?

- Section F of that page.

- Section F.

- Yeah, section F. The board made up rules and procedures to go from complains to responses.

- Yeah very good. I knew I put it in here somewhere because I think that was one of the things I heard a complaint about before is that we don't... there's no explicit authority for us to set up rule, tell people how to file, what it should look like and things like that. So I think that's important.

- Mike, on that point, can we set that out as a separate item rather than embedding it in?

- Sure, Sure.

- Because I think that sets it up kind of distinguishes it from the hearing process.

- Yep. That sounds that's a good idea. Remember, I was trying to find a place to put it in here, but I just stuck it off that section.

- And they're done that.

- Yep. That's it.

- And Mike, can I say kudos to you on G.

- Oh yeah.

- I mean, seriously this frivolous complaint stuff where there's no basis in fact, or right? I mean, I don't see that getting any better with time, unfortunately. So I don't know if that was in there before, but I like that provision.

- I think there was something in there in the code of conduct, but it was because of where it was and how it was stated. There wasn't a stick, there wasn't anything to actually enforce it. And so this actually allows for bringing in action.

- On that can I make a suggest or something for consideration that it says the city attorney May bring an action in the name of the city? I'm wondering if we should just say the city may bring an action, because there might be an issue where the city attorney might be conflicted out and allow them to bring in another council. And I don't want somebody to come back and say, well, the ordinance only says the city attorney can do it. Why am I being sued by the city, through ABC law firm or something?

- True.

- I'm thinking about that because technically when I was hired to advise the Ethics Board, I'm a special city attorney at that time. And I don't know whether that would be confused with this or not. But if you say city, I guess the only person who can bring it is the city attorney or some other attorney on behalf of the city. So I think we'd be okay.

- Yeah. I just don't want somebody to come up with some crafty defense attorney come up with the idea that, well the code only says the city attorney and it's not the city attorney.

- Yeah. The question is, assume you're gonna invoke this bill who do you make the recommendation to? To the city attorney and then let them decide whether they can bring it or do you just make a recommendation at the end of your decision? We recommend that the city bring this action.

- That's what I would say.

- Okay.

- If we don't have like outside counsel, then though it still falls on the city attorney to find outside counsel to prosecute the action. So it still feels like one way or another, it's still ultimately going to have to come through our office.

- Oh yeah. I agree with that. But by using the term city attorney, I think we're limiting the scope of who can do it. Practically I think all of us understand that, but I think I don't wanna give somebody an easy argument.

- Yeah. Okay. Any other comments or questions or? Yeah, sure.

- I have one thing and I don't know if this would fall under this code, but since the code of conduct is kind of going away to maybe be redrafted by different body, how do you handle situations where elected officials are abusing their power with regards to city employees trying to influence them to do things for whatever reason? Would that be within this code? I mean, I've present company excluded, I've worked with a lot of alders over time and sometimes you get some alders that are like trying to influence inspectors or in a capacity where they're using their power to influence a city employee to maybe not do their job properly. Is would that fall under this or would that be something that should be addressed under the code of conduct for the council members?

- I believe it would be the latter. I'm not sure that there's any provision in here that would cover that situation unless the Alder was doing it for the benefit of a family member or some organization that they had some connection with. Or the financial gain of somebody, but just being abusive, I don't think is covered by this ethics code.

- Okay.

- And I agree. I mean, I think that would have to be covered under the code of conduct. And again, without getting off the highway here too much, I think a lot of work needs to be done with that, and who knows what's gonna happen when you're finally presented to the council to go over

and try and implement how they're gonna do it. It's gonna be interesting to say the least, but I think there needs to be code for the elected officials.

- Yep. Lindsay, here's a question for you. So we do this new ethics code and it moves forward on a parallel path. You're starting to look at the code of conduct and what you may do. In the meantime, the code of conduct still says that any complaints will come to the Ethics Board. Is that a concern that this will be done in six months and the code of conduct will take two year? And the plan was to remove it from the Ethics Board, but that doesn't happen because we have don't have a new method for people to make complaints. I don't have a good answer for that. I mean, I don't think you want to include a resolution that says we're striking the section on remedies, in the code of conduct in the interim. On the other hand, maybe the Ethics Board will just say, well, we think this is going away and we're not gonna deal with it in the interim. But that's a question that occurred to me, 'cause I anticipate that this code will be approved much more quickly than whatever the code of conduct is gonna end up looking like.

- So the original thought, and I should say as an initial matter, we are potentially going to be ready to bring the code of conduct to PMP at the next PMP meeting, which is in like two weeks. And then, so that would be discussed for the first time on June 7th at council. But my expectation is that it will not obviously be resolved in one evening. It'll be the referred to staff after considerable discussion for kind of redrafting. And our initial, our initial thought was to ask them to suspend the code of conduct just because so much of it is subjective and difficult to enforce. One of the difficulties with that is that our current code doesn't lay out the exact procedure for, like our actual ethics code in chapter two doesn't lay out the procedure for bringing complaints again for violations of the ethics provisions in chapter two. So one thought is to potentially just go to committee still with the request to suspend the code of conduct while we with a relatively quick turnaround time while we make the revisions, but then also come with a temporary interim at least procedure or something to that effect that can still afford for that kind of mechanism for bringing complaints before the Ethics Board, because we just wanna make sure that we don't remove the board's jurisdiction for things like conflicts of interest. And so that's something that we're still kind of figuring out, but at least that's the initial thought that I don't know that there's a great way to do it without leaving the code of conduct kind of pending and then everything gets revised and the board just has to hold stuff in the interim and then when it's revised, you just dismiss everything 'cause it's not there anymore. I don't know. So if anybody has any brilliant ideas, I'm open to them.

- Well, I'm not sure if this is true in Green Bay, but in other places where I've seen it, that the complaints that are brought either under the ethics code under your coded conduct, tend to multiply as you get close to local elections.

- Yes.

- And you just had a local election. So you've got sort of a two year window here where maybe you can get this done. And yes, there possibly could be some complaints under the code of conduct in the interim, but it's less likely.

- Mike, we've already had complaints filed against the city clerk from the April election. And I see some of these same people taking the path of the code of conduct code of ethics. And then

there's a lot, a lot of focus on this upcoming fall election. And I anticipate unless the courts start putting out some rulings to either enforce or deny some of the things that are being done, I see more complaints coming forward. And I think people are gonna grasp onto this and just start throwing as much mud up, hoping something sticks somewhere. And so I hope we can get this code of conduct up and running and somehow force council to get something in place sooner than later. I'd like to see something before the end of June, end of July, because looking at what we've done here with the code of ethics, I could see easily three quarters of the hearings I've been at over the last six years. Never would never have gone anywhere or been filed. But I don't know. Hope for the best prepare for the worst.

- Okay. I just thought I'd raise that. You're obviously thinking about it and...

- Yeah. I may sound glass half empty right now, but just experience over the last couple of years has taught me kind of my beer's always half empty.

- Yeah.

- At the very least we can agree that the glass is not full and we have to accept that reality. But I think Alder Gavin is probably right. Especially, because as long as the code of conduct remains in effect, there's still that one year statute of limitations, there's still a lot of things that have happened in the last year that would technically fall under that. And so we are trying to get it remedied quickly and we do anticipate that there will be a lot of eyes on the upcoming elections as well as potential issues that arise related to them. So we certainly don't wanna rush this through because I don't know how much time was put into taking the care to really make the code of conduct, what it should have been the first time around as we can see by some of the difficulties we've had enforcing it. So we don't wanna get into that situation, but we also don't wanna leave it just kind of as in dangling for too long.

- Yeah. You know, I guess to the extent that I was around back when this thing started, the general intent was just for the Ethics Board to be a fact finder. So kind of the things that you were talking about doing now would be the same sort of thing where if someone wanna file a complaint against an Alder that would be sent, it's supposed to be filed with counsel, but then the council would use the Ethics Board as the finder of, or the trier of fact finder of fact, to do that investigative work and then report back to the council as to what it found. And the original draft never included to my knowledge, any sort of hearing process, but we might have to go out and hire special counsel to do the investigation or whatever, and then get a report back and file that with counsel. But we were never intended to be a hearing officer on Alder file. So that it wouldn't get bogged down in counsel with other political things going on, it would just go to the Ethics Board to do the investigation and then send it back to council with a recommendation and for the council then act on that recommendation if they chose not to. But it got pushed into this whole where we're a trier of fact, rather than just a finder of effect. So that's where it started.

- It's the camel that the committee came up with.

- So what next Lindsay, do we need to talk about these changes or do you have 'em that you can take care of 'em or where do we do from here? Or should we talk tomorrow and let these people go.

- Let's at least circle back together on the lobbying question. I just wanna make sure I'm really ironing that out with you as well once I have a chance to dig into our actual code a little bit more. But other than that, I have most of these plus it's I did remember to record at this time, so we're good. So I'll be able to catch the revisions here as well. So at this point I would suggest the board just refer it back to staff just for now, just for us to make these changes that we've discussed and the additional information ironed out for, I think the lobbying is the only substantive area we really have to revise if I'm remembering correctly from the last hour and a half. But I think referring it back to us gives us the time to then get the code of conduct to PMP and ideally kind of work toward bringing the code of conduct and this to counsel around the same time, if possible. And so if you guys are amenable to that, that would be my recommendation is just to refer back to staff at this point.

- Well, I will make that motion that this discussion that we refer this back to staff to follow through, and we have a second. Any further discussion from the board? Any further questions? Hearing none, all in favor of the motion signify by saying aye.

- [All] Aye.

- Any opposed? Motion carries.

- And so then I will just circle back with everybody about scheduling the next meeting when we are ready for that point.

- Okay. Excellent. Very good. Well, thank you all, good discussion, considerable interest in this topic I think from all of us having been down this road numerous times. And thank you, Lindsey and Mike for all your work and effort on this.

- Absolutely.

- Yep.

- Thank you. Alright, so looks like we're ready for a motion to adjourn. Somebody wanna great us with that motion. Thank you. Is there a second?

- Second.

- Yeah, a motion and a second to adjourn. All in favor signify by staying Aye.

- [All] Aye.

- Any opposed? Motion carries. Again, thank you all for your time tonight and we'll be hearing from staff on all of this, I'm sure.

- Thanks everyone.

- Thank you all.

- Good night.

- Good night.



Report to the  
**Ethics Board**  
of the City of Green Bay

**MEETING DATE**

August 18, 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 (referred to staff at the May 12, 2022 Ethics Board Meeting).

**BACKGROUND**

**RECOMMENDATION**

**FISCAL IMPACT**

**ATTACHMENTS**

1. Revised Draft with Comments
2. DRAFT GO 18-22 - Repeal and Recreate Ch 2 Art IX - Ethics

**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.**

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 Person* means and includes all persons who are covered by and subject to this Code. Covered Person 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 Persons, 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 Person may use their public position or office to obtain financial gain or anything of value for the Covered Person'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 Person, directly or indirectly, and no Covered Person may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the Covered Person'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 Person. This subsection does not prohibit a Covered Person 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 Person 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 Person or an immediate family member is associated.

(2) This subsection does not prohibit a Covered Person from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses or prohibit a Covered Person 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 Person 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 Person'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 Persons shall disclose to their supervisor or, in the case of a Covered Person 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 Person, member of a Covered Person's immediate family, nor any organization in which the Covered Person 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 Person 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 Person 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 Person'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 Person 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 Person 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 Person 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 Person 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 Person 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 Person 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 Person 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 Person 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 Person shall accept any honoraria, gifts, or Anything of Value except as allowed by this section.

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

(3) A Covered Person 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 Person or be perceived by a reasonable person as a reward for official action taken or an inducement to take official action by the Covered Person.

(4) A Covered Person 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 Person would receive from the City. A Covered Person invoking this provision shall obtain approval of the City Finance Director and file a report of reimbursement with the City Clerk. The Covered Person 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 Person receives a gift that is not allowed under this Article, the Covered Person 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 Person 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.*

(k) *Communication with City employees.* Unless otherwise provided in this code, no elected official or member of any City body shall attempt to supersede the administrative powers and duties of a Department Director or appointed official, or deputy thereof, either publicly or privately, including by giving any order(s) to any subordinate thereof. Elected officials and members of City bodies shall not attempt to influence or coerce City employees concerning their actions or recommendations to any City body about personnel, purchasing, awarding contracts, selection of consultants, processing of development applications, or the granting of City licenses and permits.

**Comment:** *The content of this provision originated in the Code of Conduct, Section 3.C. The Law Department is recommending that the Code of Conduct be repealed in its entirety, and we had previously indicated that this provision would be among those that would be part of the revised Ethics code. The purpose of this section is to preempt any situation of possible undue influence or pressure over an employee when dealing with requests from an elected official.*

## **Sec. 2-325. Post Employment Limitations.**

(a) No Covered Person 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 Person, City entity, board, committee, or commission with which the Covered Person had duties or authority while with the City.

(b) *Employment within the City.* No Alderperson, during their term of office or within 12 months 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. Sex Offender Residence Board.
- d. Zoning and Planning Board of Appeals.

(5) Commissions.

- a. Annexation Commission.
- b. Equal Rights Commission.
- c. Landmarks Commission.
- d. Plan Commission.

- e. Police and Fire Commission.
- f. Public Arts Commission.
- g. Room Tax Commission.
- h. Traffic, Bicycle and Pedestrian Commission.
- i. Transit Commission.
- j. Water 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 Person 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 Persons 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 article 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 Person 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 Person to make a disclosure or to recuse themselves. Such disclosure or recusal shall take place before the matter comes before the Covered Person.

(b) The Covered Person 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 Person need not make a disclosure if they recuse themselves. If the Covered Person determines that the situation reasonably and objectively would conflict with their official duties, or impair their independence, action, or judgment, the Covered Person shall recuse themselves from any action with respect to the matter. Recusal is accomplished by announcing that the Covered Person 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 Person 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.

(g) 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.

(h) 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.

(i) 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.
- (j) 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.
- (k) 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:

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Clerk

MM/ljm

08/30/22

**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."

**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.

**Sec. 2-323 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 Person* means and includes all persons who are covered by and subject to this Code. Covered Person 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 Persons, 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.

**Sec. 2-324 Standards of Conduct.**

(a) *Financial gain.* No Covered Person may use their public position or office to obtain financial gain or anything of value for the Covered Person'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.

(b) *Offer, solicitation, or acceptance of anything of value.* No person may offer or give to any Covered Person, directly or indirectly, and no Covered Person may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the Covered Person'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 Person. This subsection does not prohibit a Covered Person from engaging in outside employment, except as may be prohibited elsewhere in this chapter.

(c) *Conflict of interest.*

(1) No Covered Person 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 Person or an immediate family member is associated.

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

(d) *Outside employment.*

(1) No Covered Person 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 Person'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 Persons shall disclose to their supervisor or, in the case of a Covered Person 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.

(e) *Contracts or leases.* No Covered Person, member of a Covered Person's immediate family, nor any organization in which the Covered Person 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 Person 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 Person 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 Person's activity concerning a direct or indirect financial interest in a proposed City contract.

(f) *Misuse of information.* No Covered Person 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 Person 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.

(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 Person 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 Person 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 Person 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 Person may appear without compensation before any City entity on any matter involving their own property or interests.

(h) *Solicitation of funds.* No Covered Person 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 Person 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.

(i) *Honoraria and Gifts.*

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

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

(3) A Covered Person 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 Person or be perceived by a reasonable person as a reward for official action taken or an inducement to take official action by the Covered Person.

(4) A Covered Person 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 Person would receive from the City. A Covered Person invoking this provision shall obtain approval of the City Finance Director and file a report of reimbursement with the City Clerk. The Covered Person 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 Person receives a gift that is not allowed under this Article, the Covered Person 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.

(j) *Use of City property.* No Covered Person 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.

(k) *Communication with City employees.* Unless otherwise provided in this code, no elected official or member of any City body shall attempt to supersede the administrative powers and duties of a Department Director or appointed official, or deputy thereof, either publicly or privately, including by giving any order(s) to any subordinate thereof. Elected officials and members of City bodies shall not attempt to influence or coerce City employees concerning their actions or recommendations to any City body about personnel, purchasing, awarding contracts, selection of consultants, processing of development applications, or the granting of City licenses and permits.

### **Sec. 2-325. Post Employment Limitations.**

(a) No Covered Person 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 Person, City entity, board, committee, or commission with which the Covered Person had duties or authority while with the City.

(b) *Employment within the City.* No Alderperson, during their term of office or within 12 months 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.

**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.

**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. Sex Offender Residence Board.
- d. Zoning and Planning Board of Appeals.

(5) Commissions.

- a. Annexation Commission.
- b. Equal Rights Commission.
- c. Landmarks Commission.
- d. Plan Commission.
- e. Police and Fire Commission.
- f. Public Arts Commission.
- g. Room Tax Commission.
- h. Traffic, Bicycle and Pedestrian Commission.
- i. Transit Commission.
- j. Water 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.

### **Sec. 2-328. Exceptions.**

(a) Nothing in this ordinance shall be construed to cover the actions of a Covered Person 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 Persons 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 article solely claiming a violation of either of those two sections.

### **Sec. 2-329. Disclosure and Recusal.**

(a) Any Covered Person 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 Person to make a disclosure or to recuse themselves. Such disclosure or recusal shall take place before the matter comes before the Covered Person.

(b) The Covered Person 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 Person need not make a disclosure if they recuse themselves. If the Covered Person determines that the situation reasonably and objectively would conflict with their official duties, or impair their independence, action, or judgment, the Covered Person shall recuse themselves from any action with respect to the matter. Recusal is accomplished by announcing that the Covered Person 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.

### **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 Person 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

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

**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:

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Clerk

MM/ljm

08/30/22