

Chapter 6

CODE OF ETHICS

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§ 6-1. Title. [10-8-2012 by Ord. No. 1344]

This chapter shall be known as the "Code of Ethics of the City of the Port Huron."

§ 6-2. Intent and purpose. [10-8-2012 by Ord. No. 1344]

- (a) It is the policy of the City to uphold, promote and demand the highest standards of ethics from all its employees and officials, whether elected, appointed or hired. City officers and employees shall maintain the highest standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties; avoid any improprieties, or appearances of improprieties, in their roles as officers and employees and never use their City position or powers for personal gain.
- (b) It is the intent of this chapter that officers and employees shall avoid any action which may result in:
 - (1) Using public office or employment for private gain personally or monetarily;
 - (2) Giving improper preferential treatment to any person or organization;
 - (3) A lack of independence or impartiality of action;
 - (4) Making a government decision outside of official channels; or
- (c) It is not the intent of this chapter to in any way limit the right or ability of any officer or employee to exercise his or her discretion in making legitimate policy decisions which are within their official responsibilities as long as the action does not provide a special benefit to a citizen, relieve the officer or employee of a particular duty or treat that citizen differently than other similarly situated citizens.

§ 6-3. Definitions. [10-8-2012 by Ord. No. 1344]

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BUSINESS ENTITY — Includes any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit or nonprofit.

CITY — The City of Port Huron, a Michigan municipal corporation.

COMPENSATION — Payment in any form for real or personal property or services of any kind.

EMPLOYEE — A person employed by the City, whether on a full-time or part-time basis or acting in the capacity of an employee regardless of whether the employee is compensated for service in his or her official capacity.

GIFT or DONATION — Any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value, including, but not limited to, cash, food and drink, travel, lodging, honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee and campaign donations directly to or on behalf of an officer.

GOVERNMENT CONTRACT — A contract in which the City acquires goods or services from another person or entity. The term does not include a contract pursuant to which a person serves as an employee or appointed officer of the City.

GOVERNMENTAL DECISION — A determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, ordinance or measure on which a vote by the public body is required and by which the public body formulates or effectuates public policy.

INTEREST — Any right, title or share in something, either personal, financial, legal or equitable, which is owned, held or controlled, in whole or in part, directly or indirectly, by an officer or employee.

IMMEDIATE FAMILY — A person's spouse and the person's children, step-children, by blood or adoption, and grandchildren or step-grandchildren of the individual.

OFFICER — A person who holds office, by election or appointment, regardless of whether the officer is compensated for service in his or her official capacity. This includes members appointed to serve on boards or commissions.

OFFICIAL ACTION — A decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

PUBLIC BODY — The City Council and any board, authority, commission, committee, department, office or other agency of the City.

§ 6-4. Fair and equal treatment. [10-8-2012 by Ord. No. 1344]

No officer or employee shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All officers or employees shall treat all citizens with courtesy, impartiality, fairness and equality under the law.

§ 6-5. Code of conduct. [10-8-2012 by Ord. No. 1344]

The following shall constitute violations of this chapter:

- (a) General prohibition against conflict of interest. In order to avoid impropriety or a conflict of interest, no officer or employee should be involved in any activity that is or has the real potential to conflict with the conduct of official City business or as being adverse to the interests of the City.

- (b) Disclosure of confidential information and/or benefitting from confidential information. No officer or employee shall disclose or use any confidential, privileged or proprietary information gained by reason of his or her position for a purpose which is for other than a City purpose, provided that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge or which is available to the public upon request. For purposes of this chapter, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, the officer or employee only because of his or her position with the City and is not a matter of public record. Officers or employees shall not divulge any confidential information discussed in a closed session of the City Council in advance of the time that it is authorized to be released to the public. Officers and employees shall honor the confidentiality of the debate, discussion and preliminary action taken in the closed session of the City Council and be aware of the potential financial liability and/or harm to the reputation of the City by premature disclosure. Release of confidential information shall be in compliance with the Open Meetings Act (Act 267 of 1976).¹
- (c) Improper use of City personnel and property. No officer or employee shall employ or use any person under his or her official control or direction for the personal benefit, gain or profit of the officer or employee or another person. No officer or employee shall use City-owned vehicles, equipment, materials, money or property for personal or private convenience or personal gain. Nothing herein shall prohibit the use of City equipment or motor vehicles by officers or employees in accordance with policies established by the City Council, City Manager or City department head concerned, nor shall this chapter be deemed to prohibit private use of surplus City property legally disposed of by the City or its departments in compliance with established procedures.
- (d) Beneficial interest in business transaction or participation in a contract. No officer or employee shall participate in his or her capacity as an officer or employee in the making of a contract in which he or she, or an immediate family member, benefits from or has a financial interest. No officer or employee shall participate in contracts, loans, grants, rate-fixing or issuing permits involving a business in which he or she has a substantial interest. However, these provisions shall not apply in the following circumstances:
- (1) Contracting with the City where:
 - a. The contract is awarded pursuant to sealed bids;
 - b. The officer or employee is not involved directly or indirectly or otherwise refrains from participation in the decision on the award of the government contract; and
 - c. The City Council, after reviewing the circumstances, determines the award of the government contract would be in the best interest of the City.
 - (2) Where the interest of the officer or employee in the business involves the holding of less than 1% of the securities in a publicly traded business or less than 5% of privately or closely held business and where the officer or employee will not have any involvement in the transaction on behalf of the contracting business.
- (e) Engaging in certain private employment. No officer or employee shall engage in or accept private employment or render services for any private interest when the employment or service is incompatible with the proper discharge of official duties or impairs independence, judgment or action in the performance of official duties.

1. Editor's Note: See § MCLA 15.261 et seq.

- (f) Acceptance or solicitation of compensation, gifts, favors, rewards or gratuity. No officer or employee may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the officer's or employee's services with the City to influence the manner in which the officer or employee performs his or her official duties, except this prohibition shall not apply to:
- (1) Attendance of an officer or employee at a hosted meal when provided in conjunction with a meeting directly related to the conduct of City business or where official attendance by the City official as a City representative is required or in the best interest of the City;
 - (2) An award publicly presented in recognition of public service presented to the officer or employee;
 - (3) Any gift or gifts valued at \$100 or less per year in the aggregate from any person or business which cannot reasonably be presumed to influence the judgment of the officer or employee;
 - (4) Opportunities, benefits and services which are available on the same conditions as for the general public;
 - (5) Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials; and
 - (6) Acceptance of unsolicited advertising of promotional material and other items of nominal intrinsic value.

An officer or employee does not violate this chapter if he or she promptly takes reasonable action to return the gift.

- (g) Improper use of position. No officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself or for the benefit, gain or profits of any other persons. No officer or employee shall represent his or her personal opinion as that of the City.
- (h) This section shall not in any manner vary or change the requirements of contracts of public servants with public entities, MCL § 15.321 et seq., which governs the solicitation of public participation in government contracts by officers and employees and preempts all local regulation of such conduct.

§ 6-6. Disclosure of conflicts of interest, actual and potential. [10-8-2012 by Ord. No. 1344]

The following disclosure requirements are established to avoid both actual and potential conflict between the private self-interests and the public interest of officers and employees:

- (1) Self interest. No officer or employee, either on his or her behalf or on behalf of any other person, shall have an interest in any business transaction with any public body of the City, unless the person shall first make full public disclosure of the nature of the interest.
- (2) Disclosure and disqualification. Whenever the performance of official duties shall require an officer or employee to deliberate and vote on any matter involving his or her financial or personal interest, that person shall publicly disclose in general terms the nature and is disqualified from participating in the deliberations and voting on the matter.
- (3) Dual employment. No officer or employee shall engage in employment with, or render services for,

any person or entity which has business transactions with any public body of the City without first making public disclosure in general terms of the nature of the employment or services.

§ 6-7. Reporting of conflicts of interest, actual and potential. [10-8-2012 by Ord. No. 1344]

- (a) To provide a procedure for reporting actual and potential conflicts, the Director of Finance shall annually request a conflict of interest statement from the following:
 - (1) Each member of the City Council; and
 - (2) The City Manager, City department and divisions heads and any other individual required by the City Manager for situations where a conflict of interest might exist.
- (b) The conflict of interest statement form shall:
 - (1) At a minimum, a statement providing for the disclosure of those transactions between the City and the individual, including the individual's immediate family;
 - (2) Require that a copy of any campaign contribution disclosure filed with the County Clerk or the Secretary of State be submitted with the statement;
 - (3) Be completed and returned within 30 days after the start of each fiscal year on a form to be provided by the Director of Finance; and
 - (4) Be completed and returned within 30 days whenever a new member is elected or appointed to the City Council.
- (c) Acceptance of a conflict of interest statement by the Director of Finance shall not constitute approval of the statement.
- (d) The City Council shall take such action they deem appropriate, as permitted under § 6-12 or as provided by law or charter, concerning any City Council member who fails to complete and return the conflict of interest statement. The City Manager shall take such action he or she deems appropriate concerning any employee who fails to complete and return the conflict of interest statement.

§ 6-8. Examination of conflict of interest statements. [10-8-2012 by Ord. No. 1344]

The Director of Finance, the City's legal counsel and the City's independent auditors shall examine all conflict of interest statements. At the first or second regular City Council meeting in August, the Director of Finance shall notify the City Council of the results of the evaluation of these statements. If a conflict of interest exists that requires disclosure in the City's audited financial statements, the individual will be notified prior to the printing of such audited financial statements by the Director of Finance.

§ 6-9. Request for opinion from the City's legal counsel. [10-8-2012 by Ord. No. 1344]

- (a) Any officer may request the City's legal counsel provide an advisory opinion interpreting the effect or application of this chapter generally or on questions directly relating to the propriety of their conduct in a particular situation.
- (b) Any employee may request, with the approval of the City Manager, that the City's legal counsel provide an advisory opinion interpreting the effect or application of this chapter generally or on questions directly relating to the propriety of their conduct in a particular situation.

§ 6-10. Complaint procedure. [10-8-2012 by Ord. No. 1344]

- (a) All complaints alleging a violation of this chapter shall be filed with the City Clerk of the City of Port Huron within 30 days of the alleged violation or within 30 days of the discovery of the alleged violation. The complaint shall, at a minimum, contain the following:
 - (1) The complainant's legal name and current mailing address;
 - (2) The names of any officers or employees who are alleged to have committed a violation;
 - (3) The approximate date of the alleged violation(s);
 - (4) A summary of the facts giving rise to the complaint and the section or sections outlined in this chapter that were allegedly violated; and
 - (5) An explanation of why those facts constitute or may constitute a violation of this chapter.
- (b) To the extent permitted by law, preservation of the complainant's name and the information, records and proceedings relating to an investigation shall be confidential at all times during the investigation of the complaint.
- (c) Any person who files a complaint alleging a violation of this chapter knowing that material information provided therein is not true, or that information provided therein was made in reckless disregard for the truth, may be subject to a fine of up to \$500 as well as the reasonable costs incurred by the City of Port Huron in investigating the complaint and the reasonable costs incurred by the respondent in responding to the complaint.

§ 6-11. Complaint review and determination. [10-8-2012 by Ord. No. 1344]

- (a) Upon receipt of a written complaint concerning violation(s) of this chapter, the City Clerk shall promptly provide a copy to the officer or employee named therein and the appropriate controlling authority as provided below:
 - (1) The controlling authority for officers, elected or appointed, including the City Manager, is the Mayor, City Council, and the City's legal counsel; or
 - (2) The controlling authority for employees of the City is the City Manager and the City's legal counsel.
- (b) If a complaint is filed against the City's legal counsel and any of his or her designees, the City Council shall designate a neutral body to investigate the complaint and, if necessary, prosecute the violation.
- (c) Within 30 business days from receipt of the complaint, the City's legal counsel shall either provide to the City Clerk a status update or the final report and recommendation. A subsequent status update shall be provided every 30 business days thereafter until the report and recommendation is completed.
- (d) The report and recommendation shall include the following:
 - (1) A copy of the complaint;
 - (2) A formal written statement from the officer or employee named in the complaint outlining his or her position regarding the alleged violation;
 - (3) Conclude whether facts alleged in the complaint, if true, would rise to a violation of this chapter and determine whether the officer or employee named in the complaint did commit a violation

of this chapter; and

- (4) Provide a recommendation for disposition of the complaint.
- (e) The City Clerk shall provide a copy of any status updates or the report and recommendation to the appropriate members of the above-listed controlling authorities.
- (f) The above-listed controlling authorities shall take appropriate action on the basis of consensus upon any complaint or to otherwise resolve matters concerning violations of this chapter. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved, taking into consideration the recommendation of the City's legal counsel, which may include, but is not limited to, any of the following:
 - (1) Refer the matter to a higher authority within the St. Clair County court system;
 - (2) Pursue further investigation by the controlling authority;
 - (3) Take or recommend appropriate disciplinary action, including removal from office, appointed position, or employment, in accordance with state law, the Port Huron City Charter, City Code, other regulations or policies of the City of Port Huron, or any collectively bargained agreement;
 - (4) Dismissal of the complaint as being without merit with no further action required; or
 - (5) Pursue such other course of action which is reasonable, just and appropriate under the circumstances.
- (g) To the extent permitted by law, all records or portions of records thereof pertaining to a complaint that has been dismissed as being without merit or where public disclosure would clearly constitute an unwarranted invasion of an individual's privacy shall be considered a suppressed record and public access shall be denied.

§ 6-12. Sanctions. [10-8-2012 by Ord. No. 1344]

- (a) Any officer or employee who is found to have violated a provision(s) of this chapter shall be deemed guilty of misconduct.
- (b) In addition to any penalty, whether criminal or civil, an officer or employee who intentionally violates this chapter may be subject to disciplinary action, including censure, reprimand, removal, dismissal or discharge.
- (c) Sanctions shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, nor the City's obligation to comply with such collectively bargained agreements.
- (d) Any officer or employee who fails to make any disclosure required by § 6-7 may be fined \$10 per day, up to a maximum of \$500, from the first day the disclosure is due until the disclosure is filed; and
- (e) A violation of this chapter shall not be considered a basis for challenging the validity of a public body decision.
- (f) The various penalties provided under this chapter are cumulative to other remedies provided under state law or under the City Charter and ordinances of the City.

§ 6-13. Delivery of copies of Ethics Chapter to officers and employees. [10-8-2012 by Ord. No. 1344]

The City Clerk shall coordinate the delivery of a copy of this chapter to each officer or employee as soon as practicable after the enactment of this chapter, and to each new officer or employee at the time of employment or taking office. The City Clerk shall also coordinate that each person has signed and returned an acknowledgment of receipt of a copy of this chapter.

§ 6-14. Effects of other acts. [10-8-2012 by Ord. No. 1344]

The provisions of this chapter shall supersede all previously adopted resolutions, policies or procedures pertaining to conflict of interest, but shall not supersede the provision of any Charter provision or any other ordinances heretofore or hereinafter enacted and shall be interpreted and enforced to the extent not inconsistent with Charter provisions or other ordinances.