

ORDINANCE

An Ordinance to amend Section 3.800 of the Manitowoc Municipal Code to amend the Code of Ethics for the Mayor and Common Council of the City of Manitowoc.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 3.800 is amended to read as follows:

“3.800 Code of Ethics.

(1) Declaration of Policy. It is declared that high moral and ethical standards among City officials and employees are essential to conduct of free government; that the Mayor and Common Council believe that a code of ethics for the guidance of City officials and employees will help them avoid conflicts of interest, will improve public service and will promote and strengthen the faith and confidence of the people of this City in their City officials and employees. This code of ethics is intended to supplement the code of ethics for local government officials, employees, and candidates set forth in Wis. Stat. § 19.59.

(2) Definitions.

Employee shall mean any employee of the City of Manitowoc, including full-time, part-time and temporary employees and employees of the Manitowoc Public Utilities.

Financial interest shall mean any interest which yields directly a monetary or other material benefit.

Official shall mean any official of the City of Manitowoc and shall include the Mayor, members of the Common Council, department heads, and any other person elected to City office, as well as anyone appointed to serve on any City board, committee or commission, whether or not compensation is received for such service.

(3) Regulated Ethical Conduct.

(a) Fair and Equal Treatment. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(b) Use of Public Property. No official or employee shall request, permit or participate in the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit.

(c) Conflict of Interest. No official or employee may use his or her public position or office to obtain any financial interest for himself, his or her spouse or legal dependent, or for any business with which he/she is associated.

(d) Incompatible Employment. No official or employee shall engage in or accept private employment or render service for a private interest when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair such person’s independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as provided therein.

(e) Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information gained in the course of, or by reason of, his or her official position or activities ~~in any way that could result in financial gain for himself or for any other person.~~

(f) Gifts and Favors. No official or employee may solicit or accept, from any person or organization, directly or indirectly, anything of value if it could reasonably be expected to influence such official’s or employee’s vote, official actions or judgment, or could reasonably be considered as a reward for any action or inaction relating to such person’s office or employment. Elected officials shall refrain from giving gifts to employees.

(g) Contracts with the City. No official or employee who in his or her capacity as such official or employee participates in the making of a contract in which such official or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the part of such official or employee, shall enter into any contract with the City unless, within the confines of Wis. Stat. § [946.13](#), the contract is awarded through a process of public notice and competitive bidding.

(h) Disclosure of Interest in Legislation. To the extent known, any member of the Common Council who has a financial interest in any proposed action before the Common Council shall disclose on the records of the Common Council, or the Ethics Board created by this section, the nature and extent of such interest.

Any other official or employee who has a financial interest in any proposed legislative action of the Common Council and who participates in discussion with or gives an official opinion or recommendation to the Common Council, or any subdivision thereof, shall disclose on the records of the Common Council, or the Ethics Board created by this section, the nature and extent of such interest.

(i) ~~Amended by deleting subsection (3)(i).~~ Ability of Officials to Bind. No official or employee has the authority to act on behalf of or bind the City without authorization of the Common Council by resolution. Officials and employees should be clear about whether they are acting in their official capacity when meeting with businesses or individuals. Officials and employees should also strive to avoid discussing negotiations or litigation with adverse parties when not at a scheduled meeting.

(j) Campaign Contributions. Campaign contributions shall be reported by all candidates for the City office in conformity with the Wisconsin Statutes.

(k) Correspondence. All City-related email correspondence shall be conducted using City-issued email accounts. Officials shall refrain from using their personal emails for City business and should forward any City emails received on their personal email accounts to their City account.

(4) Ethics Board.

(a) There is hereby created an Ethics Board to consist of five members: one alder~~person~~~~man~~, one City official and three citizens; all appointed by the Mayor, subject to confirmation by the Common Council. The citizen members shall be chosen from the private sector and shall not be affiliated with City government in any capacity, including, but not limited to, employment, appointment or election. Terms of office of these private citizens shall be three years, with one appointment to be made annually. The Ethics Board shall elect its own chair~~man~~ and vice-chair~~man~~, and the City Attorney shall furnish the Board with whatever legal assistance is necessary to carry out its functions. If any member of the Ethics Board petitions the Board for a hearing and advice regarding his or her own conduct, such member shall not be eligible to consider the matter, and an alternate shall be appointed by the Mayor, subject to confirmation by the Council, to substitute therefor when the need arises.

(b) The Ethics Board may make recommendations to the Common Council with respect to amendments to this code of ethics.

(c) Upon the sworn statement of any person alleging acts which, if true, would constitute improper conduct under this section, the Board may conduct a public hearing, unless a private hearing is requested by the individual involved, in accordance with all common law requirements of due process. Following such hearing, the Board shall make a determination with written findings of fact and conclusions concerning the propriety of the conduct of the official or employee. If the Ethics Board, by a four-fifths vote, finds that probable cause exists against an individual for a violation of this section, it shall refer the matter for appropriate action to the City Attorney or District Attorney. In making such referral, the Ethics Board shall supply the City Attorney or District Attorney with a written statement of its determination, as well as such documents as it decides to release, but the statements of determination shall not be admissible as evidence in any court.

(d) The Board shall authorize the release to the City Attorney or District Attorney of any information, records, complaints, documents, reports and transcripts in its possession, if such release is material to the matter being investigated or prosecuted by the City Attorney or District Attorney. The accused official or employee cited by the declaration of probable cause may request the Ethics Board to withhold any information, records, documents, reports and transcripts that were placed before the Board on behalf of the accused as part of his/her defense. The Ethics Board shall grant such a request if otherwise permitted by law to do so.

(5) Advisory Opinions. When an official or employee has doubts as to the applicability of a provision of this code, such official or employee may apply, in writing, to the Ethics Board for an advisory opinion. The official or employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of the ethics code before such advisory decision is made. This code shall apply except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of statutory provision is discretionary, but determined by the Ethics Board to be more appropriate or desirable.

(6) Penalties. Violation of any provision of this section shall be punishable by forfeiture of not more than \$100.00 and, in the case of employees, may constitute cause for suspension, removal or other disciplinary action. In the case of officials, it may call for censure, forfeiture, temporary or complete suspension of powers, or expulsion pursuant to state law.

(7) Severability. If any provision of this section is held invalid or unconstitutional, or if the application of this section to any person or set of circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of this section which can be given effect without the invalid or unconstitutional provision or application.”

Section 2. This ordinance shall take effect the day after publication.

INTRODUCED _____ ADOPTED _____ APPROVED _____

Justin M. Nickels, Mayor

Fiscal Impact:

Funding Source:

Finance Director Approval:

Approved as to form: /kmm

Drafted by Kathleen M. McDaniel, City Attorney