

ORDINANCE

An Ordinance to amend Section 3.800 of the Manitowoc Municipal Code regulating Code of Ethics.

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.

Elected Official shall mean the Mayor and members of the Common Council.

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.

(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 **elected official** ~~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) 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 alderperson, 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 and vice chair, 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.~~

On February 16, 2026, the City of Manitowoc's prior Ethics Board shall be effectively dissolved. A new Ethics Board is hereby created and shall be effective February 17, 2026. The Ethics Board shall be composed of seven (7) citizens who are City residents. The Finance Committee shall appoint four (4) members, subject to the Common Council's confirmation, and the Mayor shall appoint three (3) members, subject to the Common Council's confirmation. Terms shall be four (4) years subject to the initial provisions below. No member shall be an elected official, City employee, or member of any other City board, committee, or commission.

The Director of Human Resources shall provide necessary staff assistance to the Board. The Board shall, at its inaugural meeting to organize the Board's term, elect a secretary, which shall be either the Director of Human Resources or the City Clerk, with the alternate serving as secretary if an opinion is sought or claim is made concerning the secretary chosen by the Board. The secretary shall receive any filings for the Board, but shall not vote. The City Attorney shall furnish the Board whatever legal assistance is necessary to carry out its functions.

The organization of each Board's term shall run concurrent with the Mayor's term such that a new secretary shall be elected following each new mayoral term.

Each Board member appointed by the Finance Committee will be initially appointed for staggered individual term lengths in order to ensure continuity over multiple terms of the Board. Therefore, the initial members of the Board will be divided into four classes:

- **Class One: One (1) member appointed by the Finance Committee for a one (1) year term, which shall expire at the regular Common Council meeting in April, 2027.**

- Class Two: One (1) member appointed by the Finance Committee for a two (2) year term, which shall expire at the regular Common Council meeting in April, 2028.
- Class Three: One (1) member appointed by the Finance Committee for a three (3) year term and three (3) members appointed by the Mayor for a three (3) year term, which shall expire at the regular Common Council meeting in April, 2028.
- Class Four: One (1) member appointed by the Finance Committee for a four (4) year term, which shall expire at the regular Common Council meeting in April, 2029.

At the conclusion of each initial members' individual terms, their member class shall cease to exist and all newly-appointed members shall serve four (4) years terms, as stated above.

(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.~~

A. Requests. Anyone personally involved in any matter that could involve conduct prohibited by this chapter may apply in writing to the Board or the City Attorney for an advisory opinion. The Board or the City Attorney shall review a request for an advisory opinion and may advise the person making the request; any advice provided being in writing. The person requesting an advisory opinion shall have an opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of this chapter before the advisory opinion is rendered.

B. Confidentiality. Unless otherwise waived by the person requesting an advisory opinion, any Board deliberations and actions upon such requests shall be conducted in closed session pursuant to Section 19.85(1)(h), Wisconsin Statutes, and any documents or opinions related to the request or opinion, along with the identity of the requester, shall be confidential. The Board's or City Attorney's opinion may be made public if all details which would identify the requester and other parties are removed. Confidentiality is lost, including for any records obtained or prepared by the Board or Attorney, if the person who requested the opinion makes public the substance or any portion of the opinion.

C. Conforming Behavior. It shall be *prima facie* evidence of intent to comply with this chapter if a person requests and abides by an advisory opinion issued under this section if the material facts are consistent as stated in the opinion request.

(6) Ethics Violations Complaints

A. Commencement of Complaint. Any individual, either personally or on behalf of an organization or governmental body, may file with the Board a sworn written complaint that contains allegations of a

violation of this chapter, setting forth the particulars thereof, against any person that is subject to this chapter. Filings must be made with the Board's secretary.

1. No complaint shall be commenced more than two years after a violation of this chapter is alleged to have occurred.

2. If a Board member is accused of conduct contrary to this chapter, the Mayor, subject to confirmation from the Common Council, shall appoint a temporary replacement to the Board for the accused member until any proceedings regarding that member have concluded.

B. Initial Review of Complaint. Within 10 days of receipt of the complaint, the Board's secretary shall forward to the accused a copy of the complaint and a copy of this Ethics Code and any rules of procedure and set a date, within 30 days, for a Board meeting. At the meeting, the Board will review the complaint to determine if it states reasonable suspicion. If it finds no reasonable suspicion, it shall dismiss the filing; if it so finds reasonable suspicion, it shall initiate an investigation into whether probable cause exists and shall state the nature and purpose of the investigation and the actions or activities to be investigated. Upon making its findings, the Board will notify the complainant and accused of its determination in writing.

C. Probable Cause Investigation. Pursuant to any investigation conducted under this section, the Board has the power:

1. To appoint an investigator, retain outside counsel, and other experts as needed after solicitation of recommendations from the City Attorney and upon such contract for services approved for form and content by the City Attorney.

2. To require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this chapter, as the Board may prescribe, such submission to be made within such period and under oath, or otherwise, as the Board may determine.

3. To administer oaths and to require, by subpoena issued by it, the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted.

4. To order testimony to be taken by deposition before any person, who is designated by the Board, and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by subsection (C)(2) of this section.

5. To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of Wisconsin.

D. Probable Cause Investigation Results. The Board shall review the investigation results and decide if probable cause exists. If the Board determines that probable cause does not exist, it shall dismiss the filing. If the Board determines that probable cause exists, it shall notify the accused and complainant of its decision in writing and schedule the matter for further proceedings.

1. If the Board finds probable cause, the Board shall direct the City Attorney to have a summons prepared and have it along with the complaint, served upon the accused, pursuant to Section [801.11](#) of the Wisconsin Statutes, and mailed to the complainant. The summons shall contain the date and time for the accused's appearance; notification of the opportunity to be heard, respond to, and challenge the allegations; the right to present and cross-examine witnesses under oath; the right to be represented by counsel; and the right to file a written answer with the Board prior to the date and time designated in the summons instead of appearing.

2. Any information discovered in an investigation regarding a possible violation is subject to the same process, including a separate investigation if based on different facts and the Board may order upon its own motion the complaint to include such violations or direct the City Attorney to draft a sworn complaint with the new applicable violations. If the complaint is so amended by the Board, a copy of the amendment shall be sent to the accused and complainant within 10 days.

E. Confidential Records. Information relating to the probable cause investigation into the actions of a City employee shall remain confidential until disposition of the investigation.

(7) Hearing Procedure

A. If the accused fails to appear on the date and time designated in the summons or file a timely written answer, the Board may enter a default judgment, take the allegations of the complaint to be true, and deliberate on what sanction, if any, to impose.

B. If the accused appears or files a written answer and does not deny the material allegations in the complaint, the allegations in the complaint may be taken as true and the Board shall hear the arguments of the complainant and, if applicable, the accused to deliberate on what sanction, if any, to impose.

C. If the accused appears before the Board or files a written answer by the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled.

D. If an evidentiary hearing is scheduled before the Board, the following procedures shall apply:

1. The complainant and accused may present witnesses and request that the Chair issue subpoenas for their appearance.

2. All witnesses shall testify under oath or affirmation and shall be subject to cross-examination.

3. The complainant shall first present evidence in support of the complaint and after the complainant rests, the accused may present evidence opposing the charges. The complainant and accused shall each be limited to one hour for testimony unless the Chair, subject to approval of the Board, extends the time to assure a full and fair presentation. Questions by Board members or its advising city attorney and answers to such questions shall not be counted against the time limitations.

4. At the close of testimony, the complainant and accused shall be given a reasonable time to make arguments upon the evidence produced at hearing.

5. The Board's Chair shall be the presiding officer and ensure that an orderly hearing is conducted in accordance with the provisions of this chapter and direct that oaths and affirmations be administered. The Chair shall rule on objections to the admissibility of evidence. Any ruling of the Chair shall be final unless appealed to the Board and a majority vote of those members present and voting reverses such ruling. In addition to its own subpoenas, the Chair shall issue subpoenas requested by either side, drafted by the requester in proper and legal form.

6. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.

(8) Miscellaneous Procedural Matters

A. At all stages of the proceedings, the accused is entitled to appear in person or by an attorney. If the accused is proceeded against due to acts committed while carrying out duties as an officer or employee and was acting within the scope of his/her employment at the time of the alleged offense, the accused may request the City to appoint him/her an attorney. The accused must file the request for counsel in writing with the Board's secretary at any time, but no later than 15 days after service of the summons and complaint. If the City does appoint counsel for the accused, the accused shall cooperate with the attorney and assist in their defense.

B. If the complaint is in the name of the Board or is brought by a City employee in his/her official capacity, a prosecuting city attorney shall represent the complainant.

C. The Board shall be, when required, advised by an advisory city attorney, who shall not be the same individual as the prosecuting city attorney.

D. The accused shall have the opportunity to challenge the sufficiency of the complaint.

E. The accused and the complainant may examine any documents and records that the Board obtains or prepares in connection with the matter.

(9) Findings and Recommendations

A. After the close of the hearing, or upon admission of the charges the Board shall deliberate and reach a decision as to whether a violation of this chapter occurred as stated in the complaint. The Board shall prepare findings on factual matters and conclusions of law, have the Chair sign them, and file the findings with the secretary. Per the findings of fact and conclusions, the Board may take one or more of the following actions:

1. In the case of any elected official, a recommendation to the Common Council that he or she be censured, suspended, or removed from office or employment.

2. In the case of a City employee, a recommendation to the appropriate appointing authority that the employee be warned, suspended, or discharged.

3. An order requiring the elected official or City employee to conform his or her conduct to this chapter.

4. A recommendation that the matter be referred to the District Attorney's office for prosecution.

5. A forfeiture requiring the accused to forfeit not less than \$100.00 nor more than \$1,000.00 for each violation of this chapter. Each day of violation constitutes a separate offense.

6. Such other recommendation or order as may be necessary and appropriate as consistent with the intent and purposes of this chapter and Wisconsin law.

B. The secretary shall mail or personally deliver the Board's findings and recommendations to the accused and complainant within 15 days of the Chair signing them.

(10) Appeal

The Board's findings are a final decision and may be appealed to the circuit court via certiorari review within 30 days of mailing the findings to the accused and complainant by certified mail.

~~(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)~~ **(11) 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: Anticipate no more than \$200 for ordinance publication and code update, costs of which are appropriated in the 2026 adopted budget. No additional tax levy or 2026 budget amendments needed.
Funding Source: General Fund – Clerks – Pub of Legal Notices (1100-13100-532100)
Finance Director Approval: /SMA
Approved as to form: /EGN

This resolution was drafted by Eric G. Nycz, City Attorney