

CITY OF MUSCATINE
RULES OF CITY COUNCIL FOR THE CITY OF MUSCATINE
MUSCATINE, IOWA

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CITY OF MUSCATINE

RULES OF THE CITY COUNCIL OF THE CITY OF MUSCATINE

CHAPTER 1

SESSIONS OF THE COUNCIL

1.1 The City Council shall hold its regular sessions on the first and third Thursday of each month at 7:00 p.m. in the City Hall, unless the time set shall be a holiday, then such meeting shall be held at the same time and place on the prior secular day which is not a holiday.

1.2 Special meetings may be called in conformity with 1-6-6 of the City Code.

1.3 The City Council shall hold its In-Depth Council meetings (study sessions) on the second Thursday of each month at 7:00 p.m. in the City Hall, unless the time set shall be a holiday, then such meeting shall be held at the same time and place on the prior secular day which is not a holiday.

1.4 Except when absent from the City or temporarily unable to perform his or her duties, the Mayor shall preside over all meetings of the Council and preserve order thereat. The Mayor Pro Tem shall preside during the absence of the Mayor or at the call of the Mayor. In the event of the absence of both the Mayor and Mayor Pro Tem, the Council shall be called to order by the Clerk, and the Council shall immediately select one its members to serve as Acting Mayor Pro Tem, he or she shall have the same rights and privileges as other members of the Council.

CHAPTER 2

AGENDA

2.1 On the Tuesday before each Council meeting, the City Administrator shall provide the Agenda for such Council meeting to the Mayor and each Councilmember. If the Monday prior to a Council meeting is a holiday, then such agenda and attachments shall be provided on the Wednesday prior to the meeting.

ORDER OF BUSINESS

2.2 At the regular meetings of the City Council, the Order of Business shall be as follows:

1. Opening
2. Roll Call
3. Pledge of Allegiance
4. Communications – Citizens
5. Consent Agenda
6. Minutes – Approval*
7. Public Hearings
8. Petitions and Communications**
9. From the Mayor***
10. Planning & Zoning
11. City Administrator
12. Communications Receive and File****
13. Approval of Bills
14. Communications – Councilmembers
15. Other Business
16. Adjournment

2.3 The Council agenda for all items except petitions and communications shall be closed after 5:00 p.m. on the Monday immediately preceding each regular Council meeting. Items received after that time, unless of obvious urgency, shall be held over until the following Council meeting.

CHAPTER 3

DETAILS PERTAINING TO ORDER OF BUSINESS

3.1 Roll Call shall be called at all regular and special meetings of the Council to determine if a quorum is present. Four members of the Council shall constitute a quorum and the Clerk shall announce whether a quorum is present.

3.2 Under “Public Hearings” the Mayor, or a City staff person requested by the Mayor, reports the purpose of the hearing after which time the public shall be given the opportunity to comment on the proposed matter in accordance with the rules outlined under “Rights of Participating Audience”.

3.3 Under “Minutes – Approval” the minutes of the previous Council meeting shall be approved upon motion. The City Clerk, prior to the meeting, shall have sent to each Councilmember a copy of the minutes and the reading of such minutes shall not be required unless the reading of certain articles thereof shall be requested by the Mayor or any Councilmember.

* “Minutes – Approval” is part of the Consent Agenda.

3.4 Under “Communications – Citizens” includes such communications, either verbal or written, as anyone in the audience may wish to present and which have not been included under any other item on the Council agenda. Citizens shall be allowed to address the Council in accordance with the provision of “Rights of Participating Audience”.

3.5 Under “Petitions and Communications” any petitions or communications from citizens or organizations are to be presented and read, including any applications for licenses or permits. Communications from anonymous persons are not to be presented.

****** “Petitions and Communications” is part of the Consent Agenda.

3.6 Under “From the Mayor” any messages, recommendations or suggestions which the Mayor deems appropriate from time to time are to be presented.

******* “From the Mayor” is part of the Consent Agenda.

3.7 Under “From the Planning and Zoning Commission” recommendations from the Planning and Zoning Commission will be considered by the City Council. All matters under this item are forwarded from the Planning and Zoning Commission with specific recommendations to the City Council.

3.8 Under “From the City Administrator” includes reports, recommendations, or communications of any nature from the City Administrator, other City departments, and other City boards and advisory commissions. These items, when appropriate, will include specific recommendations from the City Administrator.

3.9 Under “Communications – Receive and File” includes minutes from the various City boards and advisory commissions, special monthly reports, financial reports of the City, and other communications which require no action by the City Council. All items under this section can be received and filed by a single motion of the Council.

******** “Communications – Receive and File” is part of the Consent Agenda.

3.10 Under “Approval of Bills” the City Council shall consider the payment of all bills as submitted with the Council agenda and as prepared by the Finance Director. The Council shall authorize the payment by motion and authorize the Mayor and City Clerk to issue warrants for the amount requested. Members of the Council may question the payment of any bill and shall be provided with information concerning the bills from the City Administrator.

3.11 Under “Communications – City Council Members” any member of the Council shall have the opportunity to present suggestions or recommendations for discussion by the Council.

3.12 Under “Other Business” the Mayor, Councilmembers, City Administrator, or City Attorney may bring up items which are not on the agenda; which items may be of a general nature in the form of information, or in case of an urgency, the matter may require action by the City Council.

CHAPTER 4

MOTIONS

4.1 When a motion is made in writing and seconded, it shall be stated by the Mayor and handed to the Clerk for recording before being debated.

4.2 A motion shall be reduced to writing if requested by the Mayor, any Councilmember, or the Clerk.

4.3 After a motion has been stated by the Mayor or read by the Clerk, it shall be deemed to be in possession of the Council, but may be withdrawn by the maker at any time before a decision or amendment is made.

4.4 When a question is under discussion, no motion shall be received except one of the following, which shall have precedence in the following order:

1. To adjourn
2. To lay on the table
3. For the previous question
4. To postpone to a certain day
5. To refer to a committee
6. To amend the motion
7. To postpone indefinitely

No motion to postpone to a certain day, to refer to a committee, or to postpone indefinitely, having been decided, shall be made again on the same question at the same meeting.

4.5 A motion to lay on the table shall be decided without debate.

4.6 A motion to adjourn shall always be in order, except upon immediate repetition, interruption of a member speaking, when the previous question has been ordered, or a vote is being taken. A motion to adjourn is not debatable, except as to time.

4.7 The previous question, having been moved and seconded, shall be in this form: "Shall the main question be now put?" It shall only be ordered when demanded by a majority of the Councilmembers present, and if carried, shall close all debate and the main question shall be put immediately. If the Nays prevail, the main question shall not then be put and the consideration of the subject shall be resumed, as though no motion for the previous question had been made.

4.8 On demand of any Councilmember, before the question is put, the question shall be divided if it comprehends propositions in substance so distinct, that, one being taken away, a substantive proposition shall remain for the decision of the Council.

4.9 When any motion has been carried or lost, it shall be in order for any member of the majority to move for a reconsideration thereof, at the same meeting, the adjourned meeting, any special meeting called for this purpose, or the next regular meeting of the Council, and such motion shall take precedence of all other questions except a motion to adjourn. A motion to move for a reconsideration may be seconded by any member of the Council.

4.10 No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. A substitute motion ranks as an amendment to the main motion. It proposes to strike out the entire original motion and to insert in its place a more satisfactory motion.

4.11 Roll shall be called on the expenditures of amounts of \$1,000 or more, if requested by the Mayor any Councilmember.

4.12 Roll shall be called on any action of the Council, if requested by the Mayor or any Councilmember.

4.13 Roll shall be called on any action of any ordinances or resolutions.

4.14 The rules of parliamentary practice comprised in "Robert's Rules of Order – Revised" shall govern the Council in all cases not covered by these Rules of the Council.

CHAPTER 5

ORDINANCES

5.1 The subject matter of an Ordinance or amendment must be generally described in its title.

5.2 An amendment to an Ordinance or to a code of Ordinances must specifically repeal the Ordinance, code, section, or subsection to be amended and must set forth the Ordinance, code, section, or subsection as amended.

5.3 A proposed Ordinance or amendment must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed, unless the requirement is suspended by a recorded vote of not less than three-fourths (3/4) of the Councilmembers.

However, if a summary of the proposed Ordinance or amendment is published as required prior to its first consideration, and copies are available at the time of publication at the Office of the City Clerk, the Ordinance or amendment must be considered and voted on for passage at one meeting prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths (3/4) of the City Council members.

5.4 Passage of the Ordinance, amendment, or resolution requires an affirmative vote of not less than the majority of the Councilmembers.

5.5 Motion to spend public funds in excess of \$25,000 on any one project, or motion to accept public improvements and facilities upon their completion, requires an affirmative vote of not less than the majority of the Councilmembers.

5.6 The Mayor shall sign, veto, or take no action on an Ordinance, amendment or resolution passed by the Council. The Mayor may not vote as a member of the Council in accordance with the provisions of the laws of the State of Iowa.

5.7 Measures passed by the Council, other than motions, become effective in one of the following ways:

- A) If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an Ordinance or amendment becomes the law when published, unless a subsequent effective date is provided within the measure.**
- B) If the Mayor vetoes the measure, he or she shall explain his or her reasons for the veto in a message to the Council at the time of the veto. Within thirty (30) days after the Mayor's veto, the Council may pass the measure again by a vote of not less than two-thirds (2/3) of the Councilmembers. If the Mayor vetoes the measure and the Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon passage, and an Ordinance or amendment becomes a law when published unless a subsequent effective date is provided within the measure.**
- C) If the Mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage and an Ordinance or amendment becomes a law when published, but no sooner than fourteen (14) days after the date of passage, unless a subsequent effective date is provided within the measure.**

CHAPTER 6

RIGHTS AND DUTIES OF COUNCILMEMBERS

6.1 When any Councilmember is about to speak, he or she shall address the Mayor, confine himself or herself to the question under discussion, and avoid personalities.

6.2 If any Councilmember in speaking or otherwise, transgresses the rules of the Council, the Mayor or any member may call him or her to order, in which case the Councilmember so called to order shall immediately refrain from continuing except to proceed in order. An appeal may be made to the Council on the ruling and the ruling shall stand unless nullified by a majority vote of the Councilmembers present.

6.3 When two or more Councilmembers request at the same time to speak on a question, the Mayor shall name the Councilmember who was first to speak. The others shall be given the opportunity to speak next.

6.4 While a member is speaking, other members shall not hold private discussions or in any other manner interrupt the speaker.

6.5 No Councilmember shall be absent from any meeting of the Council without having notified the Mayor or Clerk in advance, giving the reasons for his or her absence. The Council may compel the attendance of any Councilmember if reasons for absence are deemed insufficient.

6.6 No Councilmember shall refuse to serve on any Committee to which he or she is appointed.

6.7 Unless specifically otherwise provided in the City Code, or in the laws of the State of Iowa, each Councilmember shall vote on each question before the Council for a determination unless such Councilmember has a direct conflict with the issue, which conflict shall be ruled upon by the City Attorney.

CHAPTER 7

RIGHTS OF PARTICIPATING AUDIENCE

7.1 When any member of the audience has a matter to bring before the Council, he or she shall address himself or herself to the Mayor, giving his or her name and address and present the matter either verbally or in writing. If the matter is presented in writing, the petition or communication shall be filed with the Clerk for the records of the Council.

7.2 No member of the audience shall speak more than once on any question unless every other member of the audience or Council has had the opportunity to speak on such subject, and in no case shall a member of the audience speak more than twice on the same question without the consent of the Council. The total time for speaking by any member of the audience shall be THREE MINUTES, unless the Mayor extends the time.

7.3 When two or more members of the audience rise at the same time, the Mayor shall name the one to speak first. The other shall be given the opportunity to speak next.

7.4 If any member of the audience speaks or conducts himself or herself in an unbecoming manner, the Mayor shall have the right to call him or her to order and he or she shall immediately thereupon be seated and shall not speak further less he or she conducts himself or herself in an orderly manner.

7.5 Members of the audience shall address all remarks to the Mayor and shall not hold conversations or discussions with other members of the audience.

CHAPTER 8

SERGEANT-AT-ARMS

8.1 The Sergeant-at-Arms shall attend any meeting of the Council upon the request of the presiding officer of the Council or any Councilmember.

8.2 It shall be the duty of the Sergeant-at-Arms to enforce any written order of the Council or the presiding officer.

CHAPTER 9

IN-DEPTH COUNCIL MEETING PROCEDURE

9.1 In-Depth Council meetings are held as study sessions for the purpose of deliberating towards a decision on any matter. Normally, action will not be taken on the matters discussed at In-Depth Council meetings unless an item has been specifically placed on the agenda. Any matter considered an urgency by Council and requested for action at an In-Depth Council meeting shall require approval (by simple majority) of Council before acting on the matter.

9.2 The rules of Council shall not apply to study sessions except for the rules contained in this section and except for the following, it being the intent thereof to give the Council complete freedom of discussion:

- A) The presiding officer shall be the Mayor as provided in Section 1.4 of these rules.
- B) All persons shall be permitted to address the Council during the In-Depth Council meetings in accordance with Chapter 7 of these rules. The Council may adopt the motion to refer any matter brought before it and may adopt the motion to adjourn at any time.
- C) Minutes of the In-Depth Council meetings shall be kept in accordance with the provisions of the State of Iowa laws and with the City Code and are to be submitted for approval at a subsequent meeting under the same procedures outlined in Section 3.4 of these rules.

CHAPTER 10

SUSPENSION AND AMENDMENT OF RULES

10.1 The Council may suspend any specific rule of the Council upon a three-fourths (3/4) vote of the members present. After having given written notice at a previous regular meeting, these rules may be amended at any regular meeting by a three-fourth (3/4) vote of the members of Council.

CHAPTER 11

OPEN MEETINGS LAW

11.1 All meetings conducted by the City Council shall be held in accordance with the Iowa Open Meetings Law, Chapter 28A of the Iowa Code, and as amended.

11.2 Closed sessions of City Council shall be held in accordance with Chapter 28A of the Iowa Code. Closed sessions may only be held on an affirmative vote of two-thirds (2/3) of the members of Council or all of the members present at the meeting.

11.3 The City Council shall not discuss any business during a closed session which is not directly related to the specific reason announced as justification for the closed session.

11.4 Final action by the City Council on any matter discussed in closed session shall be taken in open session unless some other provision of the Iowa Code expressly permits such actions to be taken in closed session.

11.5 Closed meetings of Council may be held for any of the following reasons:

- A) To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
- B) To discuss application for letters patent.
- C) To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- D) To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
- E) To discuss the decision to be rendered in a contested case conducted according to the provisions of Chapter 17A.
- F) To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
- G) To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution, or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- H) To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- I) To discuss the purchase of particular real estate, only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes or the tape recording of a session closed under this paragraph shall be available for public examination when the transaction is completed.

CHAPTER 12

CABLECASTING CITY COUNCIL MEETINGS

12.1 All regular City Council meetings and In-Depth City Council meetings shall be cablecast over the local government channel.

12.2 Special City Council meetings shall not be cablecast unless required by a majority vote of the City Council.

MUSCATINE CITY COUNCIL

ETHICS POLICY

CODE OF ETHICS

Sec. 1.001 Statement of Purpose.

Accepting a position as a public official and/or employee carries with it the acceptance of trust that the official/employee will work to further the public interest; maintaining that public trust is critical to the continued operation of good government. In addition, public decision-making should be open and accessible to the public at-large. To preserve the public trust, there are five principles to which public officials and/or employees should adhere: (i) a public official and/or employee represent and work towards the public interest and not towards private or personal interests, (ii) a public official and/or employee should accept and maintain the public trust to the degree that preserves and enhances the public's confidence in their public officials and/or employees, (iii) a public official and/or employee should exercise leadership in the form that consistently demonstrates behavior that reflects the public's trust, (iv) a public official and/or employee should recognize the proper role of all government bodies and the relationships between various government bodies and (v) a public official and/or employee should always demonstrate respect for others and for other positions.

Sec. 1.002 Definitions.

For the purpose of this Code of Ethics, the following words and phrases shall have the meanings ascribed to them by this section.

Advisory Board shall mean a board, commission or committee of the City that functions only in an advisory or study capacity.

Business Entity shall mean a sole proprietorship, partnership, firm, corporation, association, holding company, joint-stock company, receivership, trust or any other entity recognized by law.

Employee shall mean any person employed by the City of Muscatine, Iowa, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

Knowingly shall mean a person acts knowingly, or with knowledge, with respect to the nature of his/her conduct or to circumstances surrounding his/her conduct when he/she is aware of the nature of his/her conduct or that the circumstance exist. A person acts knowing or with knowledge, with respect to a result of his/her conduct when he/she is aware that his/her conduct is reasonably certain to cause the result.

Officer shall mean any member of the City Council, the Planning and Zoning Commission, the Board of Adjustment, and any member of a board, commission, task force or committee established by ordinance, resolution, charter or state law that has final approval authority over any application, permit, license or other City approvals provided however; no members of an advisory board shall be deemed an officer of the City.

Substantial Interest shall mean:

- A. A person has a substantial interest in the business entity if:
 - (1) the interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent (10%) or more or five thousand dollars (\$5,000.00) or more of fair market value of the business entity; or
 - (2) Funds received by the person from the business entity exceed ten percent (10%) of the person's gross income for the previous year; or
 - (3) the person holds a position of member of the board of directors or other governing board of the business entity; or
 - (4) the persons serves as an elected officer of the business entity; or
 - (5) the person is an employee of the business entity; or
 - (6) the person is a creditor, debtor or guarantor of the business entity in the amount of five thousand dollars (\$5,000.00) or more; or
 - (7) property of the person has been pledged to the business entity or is subject to a lien in favor of the business entity in the amount of five thousand dollars (\$5,000.00) or more.
- B. A person does not have a substantial interest in a business entity if:
 - (1) the person has been designated by the City Council to serve as a member of the board of directors or other governing board of a business entity; and
 - (2) the person receives no remuneration, either directly or indirectly, for his/her service on such board; and
 - (3) the primary nature of the business entity is either charitable, non- profit or governmental.
- C. A person has a substantial interest in real property if the interest is an equitable or legal ownership interest with a fair market value of two thousand five hundred dollars (\$2,500.00) or more.
- D. A person has a substantial interest under this ordinance if the person's spouse or a person related to the person in the first degree by consanguinity or affinity has a substantial interest under this ordinance.

A person is related in the first degree of consanguinity to his/her father, mother, brother, sister, son or daughter. A person is related in the first degree of affinity to his/her father-in-law, mother-in-law, brother's spouse, sister's spouse, son-in-law or daughter-in-law.

Sec. 1.003 Standards of Conduct.

Subsection 1. General Principles.

Members shall comply with the laws of the United States, the State of Iowa and the City of Muscatine, Iowa's ordinances and policies in performance of their public duties. Members shall work for the common good of the people of Muscatine, Iowa and not for the private person or personal interest.

Subsection 2. Contact of Members and Contact of Meetings.

A member's professional and personal conduct must be above reproach and must avoid even the appearance of impropriety. Members shall refrain from abusive conduct and should also refrain from making personal charges or verbal attacks upon the character or motives of other members of the council, boards and commissions, the staff, city employees or the public. Council members

should treat all city employees, fellow council members and the public in a respectful manner and shall not speak ill of the City of Muscatine, Iowa, any city employee, fellow council members or the public at a public meeting. All complaints or concerns about city employees shall be transmitted through the City Administrator who shall be charged with investigating those complaints. Any complaints about city employees should be made in writing, signed and dated.

Subsection 3. Public Meetings.

All gatherings in person or by electronic means, whether formal or informal, of a majority of the Members must be conducted in open session unless exceptions or exemptions are specifically provided by law. "Open session" means a meeting to which all members of the public have access. Members shall prepare themselves for all public meetings, listen attentively to all public discussions, hearings and presentations made to the Council or committee and participate in the business of the body. Members shall refrain from interrupting speakers, making personal comments not pertaining to the business of the body and from making any comments that are inappropriate or otherwise interfere with the orderly conduct of the meetings. Members shall conduct themselves according to the Rules of Order established by city ordinances and Iowa law. Members shall base their decisions on the merit and substance of the matter at hand and not upon a political, personal or unrelated considerations in decision making.

Section 4. No council member, board member, officer or employee, directly or indirectly or by others on his/her behalf or his/her request or suggestion, shall:

- (a) engage in any private business, transaction or employment, or have any substantial interest therein, which is incompatible or in conflict with the proper and impartial discharge of his/her duties on behalf of the City or which would be in violation of conflict of interest prohibitions found at Iowa Code §68B.2A or which would violate provisions of Iowa Code §362.5(2) (2013);
- (b) represent any private party before the public body on which the official sits or over which the official has appointment or budgetary powers;
- (c) disclose without authorization or use to further a personal interest, confidential information acquired in the course of his/her official duties;
- (d) grant or influence the granting of any special consideration, advantage or favor, to any person, group, firm or corporation, beyond that which is the general practice to grant or make available to the public at-large;
- (e) accept anything of economic value such as money, service, gift, loan gratuity, favor or promise thereof for the purpose and intent of which is to influence any such councilor, board member, officer or employee of the City in the exercise of his/her official judgment, power or authority, unless specifically exempted by Iowa Code §68B.22;
- (f) make personal use of staff, vehicles, equipment, materials or property of the City except in the course of his/her official duties or as duly authorized by the proper City councilor, board member, officer or employee;
- (g) participate in the appointment, vote for appointment or discussion of any appointment of an immediate family member or business associate or use his/her position, directly or indirectly, to effect the employment status of an immediate family member or business associate to any City office or position, paid or unpaid;
- (h) receive or have any financial interest in any sale to the City of any real estate when such financial interest was received under circumstances which would lead a reasonable person to expect that the City intended to purchase, condemn or lease said real estate

Sec. 1.004 Ex-Parte Communications.

In any such quasi-judicial matter (e.g. personnel decisions, condemnation proceedings, zoning rules, matters involving the issuance of a permit or approval) or the award of a contract before the Council, Board, Commission or Committee, a public councilor, board member or officer sitting on such Council, Board, Commission or Committee, shall not, outside of that Council, Board, Commission or Committee, communicate with or accept a communication from a person for which there are reasonable grounds for believing to be a party to the matter being considered, if such communication is designed to influence the councilor's, board member's or officer's action on that matter. If such communication should occur, the councilor, board member or officer shall disclose it at an open meeting of the Council, Board, Commission or Committee prior to its consideration of the matter.

Sec. 1 005 Disclosure of Interest and Recusal Procedures.

Whenever a matter comes before the Council, Board, Commission or Committee, as to which any conflict of interest standard, as prescribed in Section 1.003 of this Code of Ethics, applies to one of its members, the following provisions shall apply:

- (a) A councilor, board member, officer or employee shall disclose the existence of any substantial interest in a business entity or real property involved in any decision pending before such councilor, board member, officer or employee, or the body of which the councilor, board member, officer or employee is a member.
- (b) Following such disclosure, such councilor, board member or officer shall not participate in any consideration, discussion or vote on the matter before the Council, Board, Commission or Committee. If the councilor, board member or officer wishes to address the issue at an open public meeting, said councilor, board member or officer may participate as a member of the public. During deliberation and vote on the matter, the councilor, board member or officer may participate as a member of the public. The councilor, board member or officer may attend an executive session to discuss the matter at the invitation of the Council, Board, Commission or Committee, if such attendance complies with the statutory requirements of the Open Meetings Act.
- (c) The councilor, board member or officer shall not, during any part of the Council, Board, Commission or Committee meeting pertaining to the matter requiring the disclosure, represent, advocate on behalf of or otherwise act as the agent of the person or business entity in or with which the councilor, board member or officer has such an interest or relationship.
- (d) The foregoing shall not be construed as prohibiting the councilor, board member or officer from testifying as to factual matters at a hearing of the City Council, the Planning and Zoning Commission, the Board of Adjustment, or any other board, commission or committee.

Sec. 1 006 Advisory Opinions.

- (a) Where any councilor, board member, officer or employee has a doubt as to the applicability of any provision of this Code of Ethics to a particular situation, or as to the definition of terms used herein, he/she may apply to the City Attorney, by way of the City Administrator, for an advisory opinion. The councilor, board member, officer or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicability of provisions of said Code of Ethics before such advisory opinion is made.

- (b) Until amended or revoked, any advisory opinion shall be binding on the City, the City Council and the City Attorney in any subsequent actions concerning the councilor, board member, officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

Sec. 1.007 Reporting of Ethics violation.

- (a) The City Council shall have the primary responsibility for the enforcement of this Code of Ethics. Said Council may direct the City Attorney to investigate or prosecute any apparent violation of this Code or it may employ or appoint any qualified attorney to investigate or prosecute any violation or series of violations of this Code by one or more persons. At the direction of the City Council, the attorney shall have the power to investigate any complaint, to initiate any suit and to prosecute any action on behalf of the City where such action is appropriate.
- (b) Any person who believes that a violation of any portion of the Code of Ethics has occurred, may file a complaint with the City Council who may then proceed as provided in subsection (a) above however; nothing in this Code shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

Sec. 1.008 Penalties, Forfeited Position, Exemptions; Injunctions.

- (a) Except where otherwise provide by State law, it is not the intent of this Code of Ethics that violations therefore be subject to criminal penalties.
- (b) Whenever the City Council has determined that any councilor, board member, officer or employee has violated any provision of said Code of Ethics, such councilor, board member, officer or employee shall be subject to discipline.
- (c) The City Council may apply levels of discipline to the councilor, board member, officer or employee ranging from private consultation, admonishment, censure and reprimand. The Council may also choose to have the board member or officer forfeit their seat however; this level of discipline cannot be used on elected Council members.
- (d) The City Council may exempt from provisions of this Code of Ethics any conduct found to constitute a violation by a councilor, board member, officer or employee if it finds that the enforcement of this Code with respect to such conduct is not in the public interest.
- (e) Any contract or transaction which was the subject of an official act or action of the City in which there is an interest prohibited by this Code or which involved the violation of a provision of this Code, shall be voidable at the option of the City Council.

Sec. 1.12.009 Distribution of Code of Ethics.

The City Administrator shall cause a copy of this Code of Ethics to be distributed to every councilor, board member, officer and employee of the City within thirty (30) days after the enactment of said Code. Each councilor, board member, officer and employee thereafter elected or appointed shall be furnished a copy of said Code of Ethics before entering upon the duties of his/her office or position and shall sign a written statement acknowledging receipt of the copy of the Code of Ethics.