City Council Special Meeting Agenda

Monday, December 06, 2021 at 6:00 PM
27400 Southfield Road, Lathrup Village, Michigan 48076

1. **Call to Order** by Mayor Garrett
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Approval of Agenda**
5. **Public Comments for Items on the Agenda** (Speakers are limited to 3 minutes)
6. **Action Requests - For Consideration / Approval**
   - A. Appointment of Acting City Administrator(s)
   - B. Authorize Mayor to Seek Proposal for Executive Search for City Administrator
   - C. Appointment – Southfield Public Schools Liaison
   - D. Appointment – Recreation Advisory Committee Liaison
   - E. Appointment – SEMCOG Delegate and Alternate
   - F. Appointment – Infrastructure Study Group Advisor
   - G. Appointment – Planning Commission Liaison
   - H. Resolution - To Appoint a Representative and Alternate to the Southeastern Oakland County Water Authority (SOCWA)
   - I. Resolution to Appoint – SOCRRA Representative and Alternate
   - J. 2021 Election Cycle Process
   - K. City Council Orientation
7. **Public Comment**

8. **Mayor and Council Comments**

9. **Adjourn**

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment of Acting City Administrator(s)

City Council was advised of the voluntary resignation of Dr. Sheryl Mitchell Theriot as City Administrator, effective December 18, 2021.

Charter Section 3.9 provides that

> The Council may appoint or designate an Acting City Administrator during the period of a vacancy in the office or during a temporary absence of the City Administrator from the city. Such Acting Administrator shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Administrator, except such work as the Council may withhold.

The last time a vacancy in the office of City Administrator existed was in June 2017, where Pamela Bratschi (Assistant City Administrator/Treasurer) was appointed to serve as the interim until the position was filled in April 2018. This was found to be very demanding in light of her already heavy workload.

What is being recommended is that there be a shared leadership team for the acting City Administrator role:

- Pamela Bratschi, Assistant City Administrator/Treasurer
  - primary for signing documents, financial matters
- Susan Stec, Director, Community & Economic Development
  - CIP, Street, Sidewalk Projects
- Chief Scott McKee, LVPD
  - Police, Fire, EMS matters

Suggested Motion:

Appoint _____ to serve in the shared role of Acting City Administrator and authorize the City Attorney to draft the Agreements.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Authorize Mayor to Seek Proposal for Executive Search for City Administrator

City Council last contracted with the Michigan Municipal League for the Executive Search for a new City Administrator in December 2017. The other major search firm used by Michigan municipalities is GovHR USA.

Suggested Motion:

Authorize the Mayor to seek proposals for an Executive Search for a new City Administrator.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – Southfield Public Schools Liaison

The City of Lathrup Village's City Council appoints an individual to serve as a liaison to the Southfield Public Schools.

The role of liaison is to attend meetings and foster communication and cooperation to facilitate a close working relation. This is not a voting position.

Mayor Garrett is recommending Council Member Karen L. Miller.

Suggested Motion:

To appoint _____ to serve as the Southfield Public Schools Liaison.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – Recreation Advisory Committee Liaison

The City of Lathrup Village's City Council appoints an individual to serve as a liaison to the Recreation Advisory Committee.

The Recreation Advisory Committee is composed of 7 members with 3-year terms, serving no more than 2 consecutive terms.

The current members, with terms ending June 30, 2022 are:

- Loretta DeLoach
- Marcella Rogers
- Elaine Mantinan
- Cynthia Martin
- Cheryl rogers
- Regina Jones
- Lynda Ludy

The role of liaison is to attend meetings and foster communication and cooperation to facilitate a close working relation. This is not a voting position.

Mayor Garrett is recommending Council Member Barbara Kenez.

Suggested Motion:

To appoint _____ to serve as the Recreation Advisory Committee Liaison.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – SEMCOG Delegate and Alternate

The City of Lathrup Village's City Council appoints individuals to serve on SEMCOG as a Delegate and Alternate.

The principal purpose of SEMCOG (www.semcog.org) is to help local governments improve and maintain Southeast Michigan's transportation systems, environmental quality, economic interests, and infrastructure. Coordinated efforts between SEMCOG and its members ensure that resources are used efficiently and policies and procedures are optimized using the best and most complete data available.

All cities and villages, townships, counties, intermediate school districts and community colleges included in the seven-county geographical area of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne (the "SEMCOG Region") are eligible for membership.

Each delegate is to be an elected official, but an alternate is not required to be an elected official of the designating community. This is a voting position.

Mayor Garrett is recommending Council Member Jalen Jennings as the Delegate and Mayor Mykale Garrett as the alternate.

Suggested Motion:

To appoint _____ to serve as the Delegate and _____ to serve as the Alternate to SEMCOG.

SEMCOG Delegate/Alternate Designation Form

The following official representatives have been designated to the SEMCOG General Assembly which meets three times per year:

DELEGATE: (the delegate must be an elected official)

Name: _____Title: _____

Preferred E-mail:_____
(Please note: E-mail is our primary form of communication)

Preferred Mailing Address: _____

_____

Phone: (include as many as you like)

Business/Office: _____

Home: _____

Mobile/Text: _____

ALTERNATE: (the alternate may be an elected official, staff, or individual selected by the member)

Name: _____Title:_____

Preferred E-mail:_____
(Please note: E-mail is our primary form of communication)

Preferred Mailing Address: _____

_____

Phone: (include as many as you like)

Business/Office: _____

Home: _____

Mobile/Text: _____

Completed by: _____ Date: _____
(Name and Title)

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – Infrastructure Study Group Advisor

The City of Lathrup Village's City Council created the Infrastructure Study Group around Spring 2019 to research and advise the City Council on various infrastructure needs and funding options.

The Study Group consists of 4 residents and is Chaired by Mayor Pro Tem Bruce Kantor.

The current residents who serve as members include:

- Jo Arnold-Robinson
- Hugo Cardenas
- Mike Griffin
- Mike Keenan

The role of Advisor is to attend meetings and foster communication. This is not a voting position.

Advisors to the Study Group have included:

- Scott Ringler, City Engineer, Giffels Webster
- City Administrator
- 1 council member (previously Saleem Siddiqi)

Mayor Garrett is recommending Council Member Jalen Jennings.

Suggested Motion:

To appoint _____ to serve as the Infrastructure Study Group Advisor.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – Planning Commission Liaison

The City of Lathrup Village's Planning Commission consists of 7 members. The term of each member of the Planning Commission is for a term of 3-years from the 1st day of September in the year in which they are appointed or until their successor takes office. One member is from City Council. This is a voting position.

The Planning Commission memberships is currently composed of:

- Wilbert Fobbs (Member)
- Jason Hammond (Vice Chair)
- Terrence Hicks (Member)
- Mark Piotrowski (Chairperson)
- Robin Dillard-Russaw (Member)
- Les Stansbery (Member)
- Bruce Kantor (City Council Liaison)

Mayor Garrett is recommending Mayor Pro Tem Bruce Kantor.

Suggested Motion:

To appoint _____ to serve on the Planning Commission as the City Council Liaison.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – SOCWA Representative and Alternate

The City of Lathrup Village's City Council appoints individuals to serve as a representative and the alternate to SOCWA Board of Trustees(www.socrra.org).

SOCWA is a regional authority that is governed by an 11-member Board of Trustees. The original Authority member municipalities consisted of Berkley, Birmingham, Clawson, Huntington Woods, Pleasant Ridge, Royal Oak and Southfield Township. Beverly Hills, Bingham Farms, Lathrup Village and Southfield were within the territory of Southfield Township at the time of Authority incorporation. They have since incorporated and are now member municipalities.

SOCWA generally meets monthly. This is a voting position.

Currently, Sheryl Mitchell Theriot serves as the representative and Susan Stec is the alternate.

Mayor Garrett is recommending Susan Stec as the representative and Rami Sweidan as the alternate to SOCWA.

Suggested Motion:

To adopt the attached resolution and appoint _____ as the representative and _____ as the alternate to SOCWA, and authorize city staff to notify SOCWA.

CITY OF LATHRUP VILLAGE, MICHIGAN

RESOLUTION TO APPOINT A REPRESENTATIVE AND ALTERNATE TO THE SOUTHEASTERN OAKLAND COUNTY WATER AUTHORITY (SOCWA)

WHEREAS Article VII of the articles of Incorporation of the Southeastern Oakland County Water Authority provides that each municipality shall annually appoint a representative and an alternate to the Board of Trustees; and

WHEREAS this representative shall serve during the next fiscal year following their appointment and/or until their successor is appointed.

WHEREAS the City Council is requested to appoint, by resolution, a representative and alternate representative to represent the City of Lathrup Village on the Board of Trustees for SOCWA, for the fiscal year ending June 30, 2022.

WHEREAS the Mayor has recommended Susan Stec, as Representative and Rami Sweidan, as Alternate, to represent the City of Lathrup Village on the Board of Trustees for SOCWA.

NOW THEREFORE, BE IT RESOLVED that the Lathrup Village City Council hereby appoints Susan Stec as Representative and Rami Sweidan as Alternate to SOCWA and authorize the City staff to notify SOCWA of same.

Adopted this 6th Day of December, 2021.

_____
Mykale Garrett, Mayor

I, Kelda London, acting on behalf of the City Clerk for the City of Lathrup Village, Michigan, do hereby certify that the above resolution was adopted at a Regular meeting of the Lathrup Village City Council held on December 6, 2021.

_____
Kelda London
Acting on behalf of the City Clerk

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: Appointment – SOCRRA Representative and Alternate

The City of Lathrup Village's City Council appoints individuals to serve as a representative and the alternate to SOCRRA Board of Trustees(www.socrra.org).

SOCRRA is a regional authority that is governed by an 12-member Board of Trustees. The original Authority member municipalities consisted of Berkley, Beverly Hills, Birmingham, Clawson, Ferndale, Hazel Park, Huntington Woods, Lathrup Village, Oak Park, Pleasant Ridge, Royal Oak and Troy.

SOCRRA generally meets monthly. This is a voting position.

Currently, Sheryl Mitchell Theriot serves as the representative and Susan Stec is the alternate.

Mayor Garrett is recommending Susan Stec as the representative and Rami Sweidan as the alternate to SOCRRA.

Suggested Motion:

To adopt the attached resolution and appoint _____ as the representative and _____ as the alternate to SOCRRA, and authorize city staff to notify SOCRRA.

CITY OF LATHRUP VILLAGE, MICHIGAN

RESOLUTION TO APPOINT A REPRESENTATIVE AND ALTERNATE TO THE SOUTHEASTERN OAKLAND RESOURCE RECOVERY AUTHORITY (SOCRRA)

WHEREAS Article VII of the articles of Incorporation of the Southeastern Oakland County Resource Recovery Authority provides that each municipality shall annually appoint a representative and an alternate to the Board of Trustees; and

WHEREAS this representative shall serve during the next fiscal year following their appointment and/or until their successor is appointed.

WHEREAS the City Council is requested to appoint, by resolution, a representative and alternate representative to represent the City of Lathrup Village on the Board of Trustees for SOCRRA, for the fiscal year ending June 30, 2022.

WHEREAS the Mayor has recommended Susan Stec, as Representative and Rami Sweidan, as Alternate, to represent the City of Lathrup Village on the Board of Trustees for SOCRRA.

NOW THEREFORE, BE IT RESOLVED that the Lathrup Village City Council hereby appoints Susan Stec as Representative and Rami Sweidan as Alternate to SOCRRA and authorize the City staff to notify SOCRRA of same.

Adopted this 6th Day of December, 2021.

_____
Mykale Garrett, Mayor

I, Kelda London, acting on behalf of the City Clerk for the City of Lathrup Village, Michigan, do hereby certify that the above resolution was adopted at a Regular meeting of the Lathrup Village City Council held on December 6, 2021.

_____
Kelda London
Acting on behalf of the City Clerk

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: 2021 Election Cycle Process

Council Members Miller submitted questions regarding the 2021 Election Cycle Process. Mayor Garrett has brought this forward as a discussion item.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: December 6, 2021

RE: City Council Orientation

A number of documents are provided in the packet to Council Members to assist them in serving in their role as elected officials.

Information provided includes:

- City Charter
- Freedom of Information Act (FOIA)
- Michigan Open Meetings Act
- Standing Resolution Regarding Council Rules of Procedure
- Standing Resolution Regarding Unpaid Officials
- Ethics and Code of Conduct
- Conflict of Interest
- Social Media Policy
- Budget
- Personnel Manual
- Civility
- Planning Commission
- Communication / Misc
    - The Mayor is copied on all communications with City Administrator and City Attorney
    - Council Members do not contact city staff with requests. All such requests go to the City Administrator
    - When an email is sent to 3 or more council members, council members should send their comments only to the Mayor and the Mayor will issue the response.

Council Members may determine with topics they wish to have discussed in more detail by the City Attorney or staff.

Lathrup Village Code of Ordinances

- Establishes the framework for how the City is organized and operated.
- Important to familiarize yourself with the Code and refer to it often.
- Available online a: https://library.municode.com/mi/lathrup_village/codes/code_of_ordinances

Lathrup Village City Charter

Part I of the Code of Ordinances

- Legal document establishing the City of Lathrup Village under the Home Rule City Act Public Act No. 279 of 1909 (MCL 117.1 et seq., MSA 5.2071 et seq.)
- This statute provides the framework by which a new city may become incorporated and provide for its own government.
- In general, any power that is not specifically prohibited by another law for a city to exercise may be included in a city's charter.
- In total Lathrup's Charter contains 18 chapters

Chapter 3 – Organization of Government

- The electors of the city shall elect a City Council of five members, one of whom shall serve as Mayor, which Council shall constitute the legislative and governing body of the city.
- The Council shall have power and authority to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.
- Members of the Council including the Mayor shall receive no compensation for their services as such, but their reasonable and necessary expenses actually incurred in service in behalf of the city as are authorized and itemized shall be paid upon order of the Council.

Section 3.5 – Duties of the Mayor

- The Mayor shall be the executive head of the city.
- She shall have a voice and vote in all proceedings of the Council equal with that of other members of the Council but shall have no veto power.
- She shall be the presiding officer of the Council.
- The Mayor shall be a conservator of the peace.
- The Mayor shall exercise only such powers as this charter or the Council shall specifically confer upon them.
- the Mayor shall exercise only such powers as this charter or the Council shall specifically confer upon him.

Section 3.6 – Administrative Services

- The administrative officers created under the charter are
  - The City Administrator;
  - The City Attorney;
  - The City Clerk;
  - The City Treasurer; and
  - The City Assessor.

Section 3.6 – Administrative Services

- Additional administrative officers be created by ordinance.
  - Police Department
  - Recreation Coordinator
  - Public Service Department

Section 3.6 – Administrative Services

- All administrative officers of the city, except the City Administrator and Attorney, shall be appointed by the City Administrator for an indefinite period, subject to confirmation by the Council.
- Such officers shall be responsible to the City Administrator and shall have their compensation fixed by the City Administrator in accordance with budget appropriations and subject to approval by the Counci;

Section 3.10. - Relationship of Council to Administrative Service

- Neither the Council nor any of its members or committees shall dictate the appointment of any person to office by the City Administrator or in any way interfere with the City Administrator or other city officer to prevent them from exercising their judgment in the appointment or employment of officers and employees in the administrative service.
- Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Administrator, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Administrator.

City Administrator

- The City Administrator shall hold office at the pleasure of the majority of the Council and shall be the chief administrative officer of the city government.
- Key functions and duties of the Administrator:
  - To be responsible to the Council for the efficient administration of all administrative departments of the city government except the department under the direction of the Attorney;
  - To appoint, with the consent of the Council, the heads of the several city departments whose appointment is not otherwise specified in this charter, and to discharge such department heads without the consent of the Council, and to direct and supervise such department heads;
  - To recommend an annual budget to the Council and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial condition and needs of the city;
  - To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official.

City Attorney

- Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council.
- The Attorney shall act as legal adviser to, and be attorney and counsel for, the Council and shall be responsible solely to the Council.
- The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the Council may request.

City Clerk

- The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings.
- The Clerk shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. She shall also be custodian of all papers, documents, and records pertaining to the city the custody of which is not otherwise provided for.
- The Clerk shall perform such duties as may be prescribed for her by this charter, by the Council or by the City Administrator.

City Treasurer

- The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk and all evidence of indebtedness belonging to the city or held in trust by the city.
- The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the Council.
- The Treasurer shall perform such other duties as may be prescribed for her by statute, by this charter, by the Council or by the City Administrator.

City Assessor

- He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute.
- He shall perform such other duties as may be prescribed for him in this charter, by the Council, or by the City Administrator.

Police Department

- There is established a police department, which shall administer and render police services.
- The head of the department shall be the chief of police, whom will be appointed by the City Administrator for an indefinite period, subject to confirmation by the Council.

Recreation Department

- There is established a recreation department, which shall administer and render recreation services.
- The head of the department shall be the recreation director, whom will be appointed by the City Administrator for an indefinite period, subject to confirmation by the Council. .

Public Services Department

- There is established a public services department, which department shall administer and render refuse collection and disposal services, street and highways services, stormwater system services, water service, sewage collection and other public works services.
- The head of the department shall be known as the public services superintendent, whom will be appointed by the City Administrator for an indefinite period, subject to confirmation by the Council.

Section 5.13. - Pecuniary Interest Prohibited

- No contract or purchase involving an amount in excess of one hundred dollars shall be made by the city in which any elective or appointive officer or any member of his family has any pecuniary interest, direct or indirect.
- Any officer who knowingly permits the city to enter into any contract in which he has a pecuniary interest without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office.

PART I
CHARTER[1]

PREAMBLE

We, the People of the City of Lathrup Village, pursuant to authority granted by the Constitution and statutes of the State of Michigan, in order to secure the benefits of efficient self-government, and otherwise to preserve our informal friendly community, do hereby ordain and establish this Home Rule City Charter.

CHAPTER 1. NAME AND BOUNDARIES

Section 1.1. Name and Boundaries:

The municipal corporation, heretofore created by the vote of the electors on the 12th day of May, A.D. 1953, and shown by its Record, in the office of the Secretary of State, to be a duly and legally incorporated home-rule city from May 22nd, 1953, under provisions of the Public Act No. 279 of 1909 (MCL 117.1 et seq., MSA 5.2071 et seq.) as amended, shall be known as the "City of Lathrup Village." It is a body corporate and politic and shall have perpetual succession.

Said municipal corporation shall embrace the following described territory set apart from Southfield Township, Oakland County, Michigan, heretofore known as Lathrup Townsite and as Lathrup Village, together with such territory as may from time to time be attached thereto, and less such territory as may from time to time be detached therefrom, in accordance with law:

> Beginning at the North quarter corner of Section 14, Town 1 North, Range 10 East, Township of Southfield, Oakland County, Michigan; thence North 89 degrees 55' 30" West along the North line of said Section 14, being also the center line of Twelve Mile Road so-called, a distance of 1292.58'; thence South 0 degrees, 2' 30" East, 738.90 feet; thence North 89 degrees 54' West 210.65 feet; thence South 0 degrees 10' East 1903.46 feet to the East and West quarter line of said Section 14, said line being also the Northerly line of Louise Lathrup's California Bungalow Subdivision No. 6, according to the recorded plat thereof; thence West along said quarter line to the Northwest corner of said Subdivision, said point being also the West quarter corner of said Section 14; thence South along the West line of said Section 14 being also the Westerly line of said Subdivision, to the Southwest corner thereof, being also the Southwest corner of Section 14; thence East along the South line of said Subdivision, being also the South line of Section 14 and the original center line of Eleven Mile Road so-called, to the Southeast corner of said Subdivision, being also the South quarter corner

[1]Editor's note(s)—Printed herein is the charter of the City of Lathrup Village, Michigan, as adopted by voters on December 7, 1953. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law reference(s)—Power to adopt and amend charters, Mich. Const. 1963, art. VII, § 22; the home rule city act, MCL 117.1 et seq., MSA 5.2071 et seq.

of Section 14 and the Northwest corner of Louise Lathrup's California Bungalow Subdivision No. 4, according to the recorded plat thereof; thence South along the West line of said Subdivision being also the North and South quarter line of Section 23 in said Township of Southfield, to the Southwest corner of said Subdivision the same being also the center of said Section 23; thence East along the East and West quarter line of said Section 23, being also the South line of said Louise Lathrup's California Bungalow Subdivision No. 4, to the Southeast corner of said Subdivision, being the East quarter corner of said Section 23, the West quarter corner of Section 24 in said Township of Southfield, and the Southwest corner of Louise Lathrup's California Bungalow Subdivision No. 5, according to the recorded plat thereof; thence East on the East and West quarter line of said Section 24 the same being also the Southerly line of said Louise Lathrup's California Bungalow Subdivision No. 5, to the Southeast corner of said Subdivision; thence North along the East line of Louise Lathrup's California Bungalow Subdivision No. 5 and continuing North along the East line of Louise Lathrup's California Bungalow Subdivision No. 3, according to the recorded plat thereof, to the Northeast corner of said Louise Lathrup's California Bungalow Subdivision No. 3, said point being located on the North line of Section 13 in said Township of Southfield, said North line being also the center line of the Twelve Mile Road so-called; thence West along the North line of Section 13 and continuing along the North line of said Section 14, being also the North line of Louise Lathrup's California Bungalow Subdivision No. 2, according to the recorded plat thereof, as well as the center line of the Twelve Mile Road, to the point of beginning. Excepting therefrom the following parcels: (I) Part of the Northeast ¼ of Section 23 in said Township of Southfield described as follows: Beginning at a point on the East line of said Section located due North from the East quarter Section corner 495 feet; thence West 202 feet; thence North 165 feet; thence East 202 feet; thence South 165 feet to the point of beginning. (II) Part of the Southwest ¼ of Section 14, in said Township of Southfield, described as follows: Beginning at a point on the West line of said Section North 0 degrees 2′ 30″ East 222.0 feet from the Southwest corner of said Section 14; thence North 89 degrees 59″ 30′ East 408.71 feet; thence North 0 degrees 2′ 30″ East 159.70 feet; thence North 89 degrees 57′ 30″ West 228 feet; thence South 0 degrees 2′ 30″ West 20 feet; thence North 89 degrees 57′ 30″ West 180 feet to the West line of Section 14; thence South along said West line to the point of beginning. (The territory so incorporated is herein described as it was when under the government of said Southfield Township).

State law reference(s)—Organized cities to be body corporate, MCL 117.1, MSA 5.2071; annexation of territory, MCL 117.6 et seq., MSA 5.2085 et seq.

CHAPTER 2. MUNICIPAL POWERS

Section 2.1. General Powers:

Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be, permitted to provide in their charters by Public Act No. 279 of 1909 (MCL 117.1 et seq., MSA 5.2071 et seq.), as amended, as fully and completely as though these powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated herein or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the provisions of the Constitution, statutes and this charter.

State law reference(s)—Mandatory and permissible charter provisions, MCL 117.3 et seq., MSA 5.2073 et seq.

Section 2.2. Further Definition of Powers:

In addition to the powers possessed by the city under the Constitution and statutes, and those set forth throughout this charter, the city shall have power with respect to, and may, by ordinance and other lawful acts of its officers, provide for the following, subject to any specific limitations placed thereon by this charter or by law:

(a) The acquisition by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Oakland and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;

State law reference(s)—Permissible that charter provide for purchase or condemnation of property used for cemeteries, hospitals, utilities, etc., MCL 117.4e, 117.4f, MSA 5.2078, 5.2079.

(b) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by this charter or by law;

State law reference(s)—Permissible charter provisions, MCL 117.4e(3), MSA 5.2078, (3).

(c) The installation and connection of conduits for the services of any municipally owned and/or operated electric lighting service, and the issuance of bonds therefor under section 117.4b(3) of Public Act No. 279 of 1909 (MCL 117.4b(3), MSA 5.2075, (3)), if and when approved by the electorate;

State law reference(s)—Permissible charter provisions, MCL 117.4b(3), MSA 5.2075, (3).

(d) The establishment and vacation of streets, alleys, public ways and other public places, and the use, regulation, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them;

State law reference(s)—Permissible charter provisions, MCL 117.4e, MSA 5.2078.

(e) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owner thereof;

State law reference(s)—Permissible charter provisions, MCL 117.4h(2), MSA 5.2081, (2).

(f) A plan of streets and alleys within and for a distance of not more than three miles beyond the municipal limits;

State law reference(s)—Permissible charter provisions, MCL 117.4h(2), MSA 5.2081, (2).

(g) The use, control and regulation of streams within its boundaries, subject to any limitations imposed by law;

State law reference(s)—Permissible charter provisions, MCL 117.4h(4), MSA 5.2081, (4).

(h) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;

State law reference(s)—Permissible charter provisions, MCL 117.4h(6), MSA 5.2081, (6).

(i) Regulating, restricting and limiting the number and locations of oil and gasoline stations;

State law reference(s)—Permissible charter provisions, MCL 117.4i(b), MSA 5.2082, (b).

(j) The establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;

State law reference(s)—Permissible charter provisions, MCL 117.4i(c), MSA 5.2082, (c); zoning generally, MCL 125.581 et seq., MSA 5.2931 et seq.

(k) The regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for the prohibiting of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;

State law reference(s)—Permissible charter provisions, MCL 117.4i(d), MSA 5.2082, (d).

(l) Licensing, regulating, restricting and limiting the number, size and locations of advertising signs or displays and billboards within the city;

State law reference(s)—Permissible charter provisions, MCL 117.4i(f), MSA 5.2082, (f).

(m) The preventing of injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive, or unhealthful, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;

State law reference(s)—Mandatory that charter provide for public peace and health and for the safety of persons and property, MCL 117.3(j), MSA 5.2073, (j); permissible that charter provide for enforcement of police, sanitary and other ordinances that are not in conflict with general laws, MCL 117.4i(j), MSA 5.2082, (j).

(n) The prescribing of the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, and otherwise conditioning such licenses as the Council may prescribe;

State law reference(s)—Permissible that charter provide for regulation of trades, occupations and businesses, MCL 117.4i(d), MSA 5.2082, (d).

(o) The prohibiting or regulating of all landings of aircraft within its boundaries, and, for the purpose of promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the city by aircraft of all types;

(p) The prohibiting or regulating of the use, occupancy, sanitation and parking of house trailers within the city, and the right of the city to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

Editor's note(s)—The provisions of MCL 125.2307, MSA 19.855 restrict the power of the city relative to mobile homes.

(q) The requiring of an owner of real property within the city to maintain sidewalks abutting upon such property, if the property be in a platted subdivision where other properties have such sidewalks, and, if the owner fail to comply with such requirements or if the owner be unknown, to repair and/or maintain such sidewalk as a public health and safety measure, and assess the cost thereof against the abutting property. The Council shall enact legislation to implement this provision;

State law reference(s)—Charter may provide for the use, regulation, improvement and control of its streets, alleys and public ways, MCL 117.4h(1), MSA 5.2081, (1).

(r) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a reasonable time after the Council notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazards or nuisance and assess the cost thereof against such property in accordance with Section 11.9;

State law reference(s)—Mandatory that charter provide for public peace and health and for the safety of persons and property, MCL 117.3(j), MSA 5.2073, (j); permissible that charter provide for enforcement of police, sanitary and other ordinances that are not in conflict with general laws, MCL 117.4i(j), MSA 5.2082, (j).

(s) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and the cost thereof against the abutting property in accordance with Section 11.9.

State law reference(s)—Charter may provide for use, regulation, improvement and control of public ways, MCL 117.4h(1), MSA 5.2081, (1).

(t) In the interest of public health and safety, the compelling of the owners of lots and parcels of land, at their own expense, to keep obnoxious weeds, and grasses interspersed with such weeds, mowed and cut down thereon, and to keep such property cleared of garbage, rubbish and refuse. The Council, after recommendation to that effect by the Board of Health, is authorized to enact legislation to enforce this provision and provide penalties for violations; and, in case any such lots and lands are not so maintained by owners, to cause such required mowing and clearing by a city agency and assess at least the entire cost thereof against the respective lands so temporarily maintained by the city, but not to assess any part of such cost against any lots or parcels of land not so mowed and cleared by the city.

State law reference(s)—Mandatory that charter provide for public peace and health and for the safety of persons and property, MCL 117.3(j), MSA 5.2073, (j); permissible that charter provide for enforcement of police, sanitary and other ordinances that are not in conflict with general laws, MCL 117.4i(j), MSA 5.2082, (j); weed control and eradication, MCL 247.61 et seq., MSA 9.631(1) et seq.

(u) The acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, public grounds, libraries, museums, levees and embankments, city prisons, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems, sewage disposal plants and systems, office buildings for city officers and employees, public works, and public buildings of all kinds which may be required or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary, governmental or otherwise and for the establishment, development, maintenance and operation of the necessary departments to operate the same, including both equipment and personnel, and for the costs and expenses thereof. (Eff. 4-30-1963).

State law reference(s)—Permissible charter provisions, MCL 117.4e(1), MSA 5.2078, (1).

(v) The requiring of an owner of real property within the City to maintain the area between the front property line and the centerline of any platted street or alley butting upon such property, exclusive of the portion designed for vehicular travel which has been improved or maintained at public expense, in like fashion as if such area were wholly owned by such owners. The Council may enact legislation to implement this provision. (Approved 11-6-1979)

CHAPTER 3. ORGANIZATION OF GOVERNMENT

Section 3.1. The City Council:

The electors of the city shall elect a City Council of five members, one of whom shall serve as Mayor, which Council shall constitute the legislative and governing body of the city and which shall have power and authority except as in this charter or by law providing otherwise, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Council" is used in this charter, the same shall mean such City Council and shall be synonymous with the word "Commission", or any other term used in any state or federal law in referring to municipal legislative or governing bodies.

State law reference(s)—Mandatory that charter provide for election of mayor and legislative body, MCL 117.3(a), MSA 5.2073, (a).

The Council shall cause to be designed and shall adopt a municipal Seal.

No compensations, allowances, expense moneys, or gift moneys shall be appropriated for or paid to any Councilman or other city officer, board, or employee from city funds, except as duly provided for in the Budget under Section 8.5, within the limitations of Section 9.1 hereof.

Section 3.2. Qualifications of Councilmen:

Members of the Council shall meet the eligibility requirements contained in Section 5.1 of this charter. The Council shall be sole judge of the election and qualifications of its own members, subject only to review by the court.

Section 3.3. Compensation of Mayor and Councilmen:

Members of the Council including the Mayor shall receive no compensation for their services as such, but their reasonable and necessary expenses actually incurred in service in behalf of the city as are authorized and itemized shall be paid upon order of the Council.

State law reference(s)—Mandatory that charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.4. Election of Mayor; Mayor Pro Tem.:

The Council shall, at its first meeting following each city election, and after the newly elected members take office, elect one of its members to serve as Mayor and one to serve as Mayor Pro Tem., both for a term expiring at the first Council meeting following each regular city election when the election of a Mayor and Mayor Pro Tem. shall be completed as hereinafter provided. Such election shall be by written ballot and by majority vote of the members of the Council in office at the time. Provided, however, each officer shall continue in office until his successor has been selected and sworn in.

In the event of absence or disability of both the Mayor and Mayor Pro Tem., the Council may designate another of its members to serve as Acting Mayor during such absence or disability.

Section 3.5. Duties of Mayor:

(a) Insofar as required by statute, and for all ceremonial purposes, the Mayor shall be the executive head of the city. He shall have a voice and vote in all proceedings of the Council equal with that of other members of the Council but shall have no veto power. He shall be the presiding officer of the Council.

(b) The Mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the city and to suppress riot and disorder.

(c) The Mayor shall execute or authenticate by his signature such instruments as the Council, this charter or any statutes of the State of Michigan or laws of the United States shall require.

(d) Except as may be required by statute, the Mayor shall exercise only such powers as this charter or the Council shall specifically confer upon him.

(e) In the absence or disability of the Mayor, the Mayor Pro Tem. shall perform the duties of Mayor. In the absence or disability of both, the designated Acting Mayor shall perform such duties. Absence or disability in this chapter shall mean only such conditions and situations as make the officer unable to perform his duty as of a necessary time or place.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.6. Administrative Service:

The administrative officers of the city shall be the City Administrator, Attorney, Clerk, Treasurer, Assessor, and such additional administrative officers as may be created by ordinance. The Council may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

The City Administrator and Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council.

All administrative officers of the city, except the City Administrator and Attorney, shall be appointed by the City Administrator for an indefinite period, subject to confirmation by the Council. Such officers shall be responsible to the City Administrator and shall have their compensation fixed by the City Administrator in accordance with budget appropriations and subject to approval by the Council. Such officers may be discharged by the City Administrator at his pleasure without confirmation by the Council.

Except as may be otherwise required or limited by this charter or by law, the Council shall establish by ordinance such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department. The City Administrator may prescribe such duties and responsibilities of the officers of those departments responsible to him which are not inconsistent with this charter or with any ordinance or resolution.

All personnel employed by the city who are not elected officers of the city or administrative officers by, or under the authority of, this charter shall be deemed to be employees of the city.

Any employee who has been discharged may within ten days thereafter petition the Council to hear the facts regarding such discharge, and in any such case the Council may, in its own discretion, hold a hearing and inquire into such facts and may make such recommendation in the matter as it considers proper.

State law reference(s)—Mandatory that charter provide for appointed officers, MCL 117.3(a), MSA 5.2073, (a); mandatory that charter provide for compensation of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.7. City Administrator—Appointment and Qualifications:

The Council shall appoint a City Administrator within ninety days after any vacancy exists in such position. The City Administrator shall hold office at the pleasure of the majority of the Council. He shall be selected solely on the basis of his executive and administrative qualifications with special reference to his training and experience.

State law reference(s)—Mandatory that charter provide for qualifications of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.8. City Administrator—Functions and Duties:

The City Administrator shall be the chief administrative officer of the city government. His functions and duties shall be:

(a) To be responsible to the Council for the efficient administration of all administrative departments of the city government except the department under the direction of the Attorney;

(b) To see that all laws and ordinances are enforced;

(c) To appoint, with the consent of the Council, the heads of the several city departments whose appointment is not otherwise specified in this charter, and to discharge such department heads without the consent of the Council, and to direct and supervise such department heads;

(d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;

(e) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;

(f) To recommend an annual budget to the Council and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial condition and needs of the city;

(g) To recommend to the Council for adoption such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote;

(h) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;

(i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Council and to generally accepted principles and procedure of governmental accounting. He shall make monthly financial statements to the Council.

State law reference(s)—Mandatory that charter provide for uniform system of accounts required by law, MCL 117.3(m), MSA 5.2073, (m); uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

(j) To perform such other duties as may be prescribed by this charter or as may be required of him by ordinance or by direction of the Council.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.9. Acting City Administrator:

The Council may appoint or designate an Acting City Administrator during the period of a vacancy in the office or during a temporary absence of the City Administrator from the city. Such Acting Administrator shall, while

he is in such office, have all the responsibilities, duties, functions and authority of the City Administrator, except such work as the Council may withhold.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.10. Relationship of Council to Administrative Service:

Neither the Council nor any of its members or committees shall dictate the appointment of any person to office by the City Administrator or in any way interfere with the City Administrator or other city officer to prevent them from exercising their judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Administrator, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Administrator.

Section 3.11. Clerk: Functions and Duties:

(a) The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language.

State law reference(s)—Mandatory that charter provide for keeping in the English language a journal of meetings of legislative body, MCL 117.3(m), MSA 5.2073, (m).

(b) The Clerk shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the city the custody of which is not otherwise provided for.

(c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council.

(d) The Clerk shall provide and maintain in his office a supply of forms for all petitions to be filed for any purpose by the provisions of this charter.

(e) The Clerk shall have power to administer oaths of office.

(f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Council or by the City Administrator.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.12. Treasurer: Functions and Duties:

(a) The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk and all evidence of indebtedness belonging to the city or held in trust by the city.

(b) The Treasurer shall collect all moneys of the city the collection of which is not provided for elsewhere by charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, and all other charges. All money shall be turned over to the Treasurer after collection or receipt, and he shall in all cases give a receipt therefor.

(c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the accounting officer of the city.

(d) The Treasurer shall disburse all city funds in accordance with the provisions of statute, this charter and procedures to be established by the Council.

(e) The Treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.

(f) The Treasurer shall perform such other duties as may be prescribed for him by statute, by this charter, by the Council or by the City Administrator.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d); Municipal Finance Act, MCL 133.1a et seq., MSA 5.3188(1) et seq.

Section 3.13. Assessor: Functions and Duties:

The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Council, or by the City Administrator.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d); time, place and method of assessment, MCL 211.10 et seq., MSA 7.10 et seq.

Section 3.14. Attorney: Functions and Duties:

(a) The Attorney shall act as legal adviser to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall in writing advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.

(b) The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the Council may request. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(c) The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and shall promptly give his opinion as to the legality thereof.

(d) The Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the city.

(e) The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Council.

(f) Upon the recommendation of the Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the Attorney therein.

State law reference(s)—Mandatory that charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.15. Compensation of Attorney and Special Counsel:

The compensation set by the Council for the Attorney shall be in contemplation of the normal duties of that office. Special compensation may be provided at the discretion of the Council for appeals to, or litigation commenced in, Federal Court, Circuit Court or State Supreme Court; for work requiring extensive hearings before quasi-judicial or administrative tribunals; for legal work in connection with the issuance of bonds of the city; for condemnation proceedings or for other matters outside the scope of his normal duties. No such special compensation, nor any compensation to special legal counsel, shall be paid except in accordance with an agreement between the Council and the Attorney or special council made before the service for which such special compensation is to be paid has been rendered.

State law reference(s)—Mandatory that charter provide for compensation of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 3.16. Planning and Zoning:

The Council may establish by ordinance a City Planning Commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such commissions.

State law reference(s)—Planning commissions, MCL 125.32 et seq., MSA 5.2991 et seq.

The Council shall maintain a zoning ordinance in accordance with the provisions of state law relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the City Planning Commission. The Council shall appoint or be a Board of Zoning Appeals. The Zoning Ordinance and the Building Code of the Township of Southfield, under the conditions of Section 7.1 hereof, shall continue in full force and effect in the territory incorporated within the city and be administered therein by the city until amended or repealed or found invalid.

Editor's note(s)—The city has enacted building codes and a zoning ordinance. See Code ch. 14 and app. B.

State law reference(s)—Zoning generally, MCL 125.581 et seq., MSA 5.2931 et seq.; board of appeals, MCL 125.585 et seq., MSA 5.2935 et seq.

In the administration of such Code the Council shall provide for the collection of fees for building permits and a system of inspection of construction, plumbing and electrical work, such as will safeguard construction, and shall set up a schedule of charges for same, such as will render a net income to the City Treasury as to that work.

Section 3.17. Plats:

No lands or premises shall hereafter be laid out, divided and platted into lots, streets, and alleys, within the city, except by permission and approval of the Council. The Council shall have authority to impose reasonable terms and conditions upon the approval of any plat. No plat shall be permitted or approved by the Council which shall contain any residential lot or lots of less than one hundred and fifty feet in depth, or less than one hundred feet in width, unless such plat shall be of an irregular shape, thereby making certain lots unavoidably of less than one hundred and fifty feet in depth; in which event the Council shall require the said lot or lots to be of sufficient additional width so that the total number of square feet contained in any lot shall not be less than fifteen thousand square feet except lots platted in accordance with the provisions of this charter or ordinances of the city providing for business frontage. No plat shall be approved unless it conforms to such general plan as may be adopted by the Council for the width and location of streets, which plan, however, shall not conflict with any such state or county plan, or unless the person, firm, or corporation owning the land proposed to be platted shall first agree to install therein adequate water and sewer mains and all public improvements required to place the area to be platted and used on an equal footing with respect thereto with the property adjacent to or surrounding such land proposed to be platted.

Such installation of utility improvements may be progressive, through the development of the parts of a subdivision, one part at a time. Provided, however, that no building permit shall issue for construction of a dwelling-house or other structure in any part until and unless such necessary utilities exist to serve the structure. Provided, further, improvements required to be installed by landowners hereunder, shall not be deemed to include any public utilities sponsored and installed by the State, County, or any Metropolitan Authority under provisions of law.

State law reference(s)—Land division act, MCL 560.101 et seq., MSA 26.430(101) et seq.

Section 3.18. Independent Boards and Commissions:

The Council may not create any board or commission other than those provided for in this charter, to administer any activity, department or agency of the City government except (a) a municipal hospital service, (b) recreation, (c) library service, or (d) any activity which by statute is required to be so administered. The Council may, however, establish (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

(Eff. 4-30-1963)

CHAPTER 4. ELECTIONS[2]

Section 4.1. Qualification of Electors:

The residents of the city having the qualifications of electors in the State of Michigan shall be eligible to vote upon being duly registered by the city.

Editor's note(s)—The provisions of charter § 4.1 are superseded by MCL 6.491 et seq., MSA 6.1491 et seq. in that such act provides for the qualifications of electors of the city. *See* MCL 168.492, MSA 6.1492.

Section 4.2. Election Procedure:

The election of all city officers shall be on a nonpartisan basis. The general election statutes shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure.

State law reference(s)—Mandatory that charter provide for nomination of elective officers by partisan or nonpartisan primary, by petition or by convention, MCL 117.3(b), MSA 5.2073, (b); Michigan election law, MCL 168.1 et seq., MSA 6.1001 et seq.; registration of electors, MCL 168.491 et seq., MSA 6.1491 et seq.

Section 4.3. Wards and Precincts:

The City of Lathrup Village originally shall consist of one ward and one voting precinct. The Council may from time to time establish by ordinance convenient election precincts.

State law reference(s)—Mandatory that charter provide for wards, MCL 117.3(e), MSA 5.2073, (e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

Section 4.4. Election Date:

A regular city election shall be held on the first Tuesday following the first Monday in November of each odd numbered year beginning in 1997. All other regular general elections shall be held on the dates and in the manner provided by the election laws of the State of Michigan.

(Approved 11-5-1996)

[2]State law reference(s)—Mandatory that charter provide for the time, manner and place of holding elections, MCL 117.3(c), MSA 5.2073, (c); Michigan election law, MCL 196.1 et seq., MSA 6.1001 et seq.

Section 4.5. Elective Officers and Terms of Office:

The elective officers of the city shall be five Councilpersons and a Justice of the Peace, all of whom shall be nominated and elected from the city at large.

At each regular city election there shall be elected three Councilpersons and such additional number as may be required to fill vacancies pursuant to the provisions of Section 5.7. For the regular city election of November, 1996 the two receiving the highest number of votes shall be elected for a term of office of three years, the one receiving the third highest number of votes shall be elected for a term of office of one year. Beginning at the regular city election in November, 1997 and at each odd year regular city election thereafter, the two receiving the highest number of votes shall be elected for a term of four years, the one receiving the third highest number of votes shall be elected for a term of two years. The terms of office of Councilpersons shall commence at 8:00 p.m. on the Monday next following the regular city election at which they are elected.

At the regular city election in 1955 and every fourth year thereafter there shall be elected one Justice of the Peace for a term of four years commencing on the fourth day of July next following his election.

(Approved 11-5-1996)

Editor's note(s)—The references in charter § 4.5 to a justice of the peace are obsolete. *See* MCL 600.9921, 600.9930, MSA 27A.9921, 27A.9930.

State law reference(s)—Authority to time for taking office, MCL 168.644h, MSA 6.1644(8).

Section 4.6. Special Elections:

Special city elections shall be held when called by resolution of the Council at least forty days in advance of such election, or when required by this charter or statute. Any resolution calling a special election shall set forth the purpose of such election. No more special city elections shall be called in any one year than the number permitted by statute.

State law reference(s)—Notice of special elections, MCL 168.653a, MSA 6.1653(1); maximum number of special elections in one year, MCL 117.5(c), MSA 5.2084, (c).

Section 4.7. Notice of Elections:

Notice of the time and place of holding any city election and of the officers to be elected and any questions to be voted upon shall, except as herein otherwise provided, be given by the Clerk in the same manner and at the same time as provided by statute for the giving of election notices by city clerks.

State law reference(s)—Notice of elections, MCL 168.653a, MSA 6.1653(1).

Section 4.8. Voting Hours:

The polls of all elections shall be opened and closed at the time prescribed by statute for the opening and closing of polls at state elections.

State law reference(s)—Poll hours, MCL 168.720, MSA 6.1720.

Section 4.9. Nominations:

The method of nominations of all candidates for the city elections shall be by petition. Each petition may comprise one or more sheets. The petition for each candidate shall be signed by not less than twenty-five nor

more than fifty registered electors of the city. No person shall sign their name to a greater number of petitions for any office than there are persons to be elected to said office at the following city election. Where the signature of any individual appears on more petitions than a person is permitted to sign with respect to a given office, such signatures shall not be counted for that office on any one of the petitions.

Nomination petitions for candidates for regular city elections shall be filed with the Clerk by 4:00 p.m. by the prevailing local time on the first Tuesday following the first Monday in August. Nomination petitions for special elections for the filling of vacancies held pursuant to Section 5.57 shall be filed with the Clerk between the thirty-fifth day preceding such election and 4:00 p.m. by the then prevailing local time on the thirtieth day preceding such election.

The Clerk shall, prior to every election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be elected to each office at least one week and not more than three weeks before such day.

(Approved 11-5-1996)

State law reference(s)—Mandatory that charter provide for nomination of elective officers by partisan or nonpartisan primary, by petition or by convention, MCL 117.3(b), MSA 5.2073, (b); nonpartisan nominating petitions, MCL 166.544a, MSA 6.1544(1); filing of petitions, MCL 168.644f, MSA 6.1644(6).

Section 4.10. Form of Petitions:

The Council shall approve a form of nominating petition with spaces thereon for address and date of signing for each signer, an affidavit form for the circulator to sign affirming that he and the petitioners are registered electors, and a summary of the qualifications required of candidates and the regulations governing the petition. A supply of official petition forms shall be provided and maintained by the Clerk.

Editor's note(s)—The provisions of charter § 4.10 are superseded by MCL 168.544c, MSA 6.1544(3), insofar as they relate to the form of the nominating petition. *See* MCL 166.544a, MSA 6.1544(1).

Section 4.11. Approval of Petition:

The Clerk shall accept only nomination petitions which conform with the forms provided and maintained by him, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by this charter.

The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this Charter and of law, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for his respective elective city office by this charter and shall write his determinations thereof on the face of the petition.

The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger if possible. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 P.M. at the then prevailing local time on the fifth day after the last date for filing original petitions; thereafter no further petitions may be filed.

Editor's note(s)—The provisions of charter § 4.10 are superseded by MCL 168.552, MSA 6.1552.

Section 4.12. Public Inspection of Petitions:

All nomination petitions filed shall be open to public inspection in the office of the Clerk.

State law reference(s)—Public record of nominating petitions, MCL 168.555, MSA 6.1555.

Section 4.13. Election Commission:

An Election Commission is hereby created, consisting of the Clerk, the Attorney and one member of the Council who shall not be a candidate for elective office at the election for which he serves as a member of the Election Commission, such member to be appointed by the Council not less than fifteen days before such election. The members shall serve without compensation. The Clerk shall be chairman. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

State law reference(s)—Board of city election commissioners, MCL 168.25, MSA 6.1025.

Section 4.14. Form of Ballot:

The form, printing and numbering of ballots or the preparation of any voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

State law reference(s)—Preparation and distribution of primary ballots, MCL 168.559 et seq., MSA 6.1559 et seq.; voting machines at primaries, MCL 168.574 et seq., MSA 6.1574 et seq.; ballots in general elections, MCL 168.684 et seq., MSA 6.1684 et seq.

Section 4.15. Canvass of Votes:

The Clerk and the members of the Council shall be the board of canvassers to canvass the votes at all city elections, except that if any of such persons are candidates for office at the election to be canvassed such person shall not serve as a canvasser at such election. The board of canvassers shall convene on the day following each city election at the usual time and place of meeting of the Council and determine the results of the city election upon each question and proposition voted upon and which persons are duly elected to the several offices respectively at said election, and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the city duplicate certificates of the determinations of the board and shall file one certificate with the County Clerk and the other in his own office.

Editor's note(s)—The provisions of charter § 4.15 are superseded by MCL 168.24a et seq., MSA 6.1024(1) et seq.

Section 4.16. Tie Vote:

If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the Council shall name a date for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by statute.

State law reference(s)—Determination of winner by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

Section 4.17. Recount:

A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute (a) the petition for a recount of the votes cast at any city election shall be filed with the Clerk by 5:00 P.M. on the second full day on which the Clerk's office is open for business after the board of canvassers has made its official report of the result of the election at which such votes were cast, (b) any counter petition shall be filed by 5:00 P.M. of the next full day thereafter on which the Clerk's office is open for business and (c) no officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

Editor's note(s)—The provisions of charter § 4.17 are superseded by MCL 168.861 et seq., MSA 6.1861 et seq.

Section 4.18. Recall:

Any elected official may be recalled from office by the electors of the city in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this charter and by statute.

State law reference(s)—Recall, MCL 168.951 et seq., MSA 6.1951 et seq.

CHAPTER 5. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Section 5.1. Eligibility for Office in City:

No person shall hold any elective office of the city unless he has been a resident of the territory incorporated as the city for at least two years immediately prior to the last day for filing nominating petitions for such office or prior to the time of his appointment to fill a vacancy.

All officers of the city shall be United States citizens.

No person shall hold any elective office unless he is a qualified and registered elector of the city on such last day for filing or at such time of appointment and throughout his tenure of office.

The Justice of the Peace shall, in addition, have the qualifications for that office prescribed in Section 16.2.

Each member of a city board or commission shall have been a resident of the territory incorporated as the city for at least two years prior to the day of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

No elective officer may be appointed to any city office or be employed by the city during the term of office for which he was elected.

No person shall be eligible for any elective or appointive city office who is in default to the city. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability for such default.

Editor's note(s)—A two-year residency requirement for city office is unconstitutional. *See Green v. McKeon,* 335 F. Supp. 630 (E.D. Mich. 1971), *aff'd* 468 F.2d 883 (6th Cir. 1972). A one-year residency requirement was upheld in *Joseph v. City of Birmingham,* 510 F. Supp. 1319 (E.D. Mich. 1981).

As to appointed offices, a broad citizenship requirement is unconstitutional; only those positions that formulate, execute or review important policy can be subjected to a citizenship requirement. *See Sugarman v. Dougall,*

413 U.S. 634 (1973); *Foley v. Connelie,* 435 U.S. 291 (1978); *Cabel v. Chavez-Salido,* 454 U.S. 432 (1982); *Ambach v. Norwick,* 441 U.S. 68 (1979).

The fourth paragraph of charter § 5.1 is obsolete. *See* MCL 600.9921, 600.9930, MSA 27A.9921, 27A.9930.

An ordinance prohibiting residents who are delinquent in payment of property taxes or sewer and water fees from appearing on local ballots does not violate equal protection rights or freedom of association rights of voters or potential candidates. *Corrigan v. City of Newaygo,* 55 F.3d 1211 (6th Cir. 1995).

State law reference(s)—Mandatory that charter provide for qualifications of officers, MCL 117.3(d), MSA 5.2073, (d).

Section 5.2. Vacancies in Elective Office; Removal From Office:

Any elective city office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

(a) For any reason specified by statute or by this charter as creating a vacancy in office;

(b) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;

(c) If the officer shall be found guilty by a competent court of the State of Michigan of any act constituting misconduct in office under the provisions of this charter;

(d) If the officer shall absent himself continuously from the city for more than thirty consecutive days in any one year without the permission of the Council;

(e) In the case of any members of the Council, if such officer shall miss four consecutive regular meetings of the Council or twenty-five percent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council at the time of each absence;

(f) If the officer is removed from office by the Council in accordance with the provisions of Section 5.4;

(g) If the officer cease to be a registered elector in, or a bona fide resident of, the city.

State law reference(s)—Events creating vacancy, MCL 201.3, MSA 6.693.

Section 5.3. Vacancies in Boards and Commission:

The office of any member of any board or commission created by, or pursuant to, this charter shall be declared vacant by the Council:

(a) For any reason specified by statute or by this charter as creating a vacancy in office;

(b) If the officer shall be found guilty by a competent tribunal of any act constituting misconduct in office under the provisions of this charter;

(c) If such officer shall miss four consecutive regular meetings of such board or commission, or twenty-five percent of such meetings in any fiscal year of the city, unless such absences shall be excused by such board or commission and the reason therefor entered in the proceedings of such board or commission at the time of each absence;

(d) If the officer is removed from office by the Council in accordance with the provisions of Section 5.4.

State law reference(s)—Events creating vacancy, MCL 201.3, MSA 6.693.

Section 5.4. Removals from Office:

Removals by the Council of elective officers or of members of boards or commissions shall be made for either of the following reasons: (a) for any reason specified by statute for removal of city officers by the Governor, (b) for any act declared by this charter to constitute misconduct in office. Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal may be being considered, shall be required for any such removal.

Section 5.5. Resignations:

Resignations of elective officers and of members of boards and commissions shall be made in writing and filed with the Clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body who shall promptly file same with the Clerk. Forthwith upon his receipt of a resignation, the Clerk shall notify the Administrator of it, and shall bring the same to the attention of the Council at its next meeting thereafter.

State law reference(s)—Resignations, MCL 201.1, MSA 6.691.

Section 5.6. Filling Vacancies in Appointive Offices:

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

State law reference(s)—Vacancies in city offices to be filled as provided in charter, MCL 201.37, MSA 6.717.

Section 5.7. Filling Vacancies in Elective Offices:

(a) Any vacancy which occurs in the Council more than one hundred twenty days before the next regular city election shall be filled within sixty days by a majority vote of the remaining members of the Council, said appointee to hold office until the Monday following such election, at which election such vacancy shall be filled as provided in Section 4.5 for any balance of the unexpired original term. Any vacancy which occurs in the Council one hundred and twenty days or less before the next regular city election may not be filled.

(b) If any vacancy in the office of Councilman which the Council is authorized to fill is not so filled within sixty days after such vacancy occurs, or if three or more vacancies exist simultaneously in the office of Councilman such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office, candidates shall be nominated by petitions in a manner identical to that provided for regular elections; the names of all qualified candidates who file sufficient valid nomination petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this Section 5.7 shall govern.

(c) The provisions of this Section 5.7 shall not apply to the filing of vacancies resulting from recall.

State law reference(s)—Vacancies in city office to be filled as provided in charter, MCL 201.37, MSA 6.717.

Section 5.8. Filling Vacancies in the Office of Justice of the Peace:

(a) Vacancies in the office of Justice of the Peace occurring sixty days or more before any regular city election, shall be filled by appointment by a majority vote of the members of the Council then in office for a term expiring on the Monday following the next regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4 generally and more particularly Sections 4.11 and 4.12 thereof, and the Justice so elected shall take office on the Monday following such election.

(b) Vacancies in the office of Justice of the Peace occurring less than sixty days before any regular city election shall be filled by appointment by a majority vote of the members of the Council then in office for a term expiring on the Monday following the regular city election in the next succeeding year. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in Chapter 4 generally and more particularly Sections 4.11 and 4.12 thereof, and the Justice so elected shall take office on the Monday following such election.

(c) The provisions of this section shall not apply to the filing of vacancies resulting from recall.

Editor's note(s)—Charter § 5.8 is obsolete as the office of justice of the peace has been abolished. *See* MCL 600.9921, 600.9930, MSA 27A.9921, 27A.9930.

Section 5.9. Change in Term of Office or Compensation:

Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards and commissions appointed for definite terms shall not be shortened. The terms of elective officers of the city shall not be extended beyond the period for which any such officer was elected except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The Council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered. The salary of any elective officer shall not be increased or decreased from the time of his election until the end of the term of office for which he was elected.

State law reference(s)—Mandatory that charter provide for compensation of city officers, MCL 117.3(d), MSA 5.2073, (d).

Section 5.10. Oath of Office and Bond:

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State [now Mich. Const. 1963 art. XI, § 1] and shall file the same with the Clerk, together with any bond required by statute, this charter, or by the Council. In case of failure to comply with the provisions of this section within ten days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 5.11. Surety Bonds:

Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an

officer or employee; and such bonds may be further conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of city employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The Clerk shall be custodian of all the bonds of all officers or employees, except that the Treasurer shall be custodian of any bonds pertaining solely to the Clerk.

Section 5.12. Delivery of Office:

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner on demand, deliver to his successor in office or to his superior all the books, papers, moneys and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute.

Section 5.13. Pecuniary Interest Prohibited:

(a) Except as permitted by this section no contract or purchase involving an amount in excess of one hundred dollars shall be made by the city in which any elective or appointive officer or any member of his family has any pecuniary interest, direct or indirect. A "contract" shall for the purposes of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city; and the term "member of his family" shall mean spouse, children, and the spouse of any of them.

(b) A contract in which an officer or member of his family has a pecuniary interest may be made by the city if the members of the Council in office at the time having no such interest shall unanimously determine that the best interests of the city will be served by the making of such contract and if either such contract is made after comparative prices are obtained or if the members of the Council having no such interest shall unanimously determine that the obtaining of comparative prices is not feasible in such particular case. Any Council member may evidence his participation in either determination required by this paragraph by vote at a Council meeting or by written instrument filed with the Clerk.

(c) Any officer who knowingly permits the city to enter into any contract in which he has a pecuniary interest without disclosing such interest to the Council prior to the action of the Council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (b) of this section, the unanimous determination (by vote or written instrument) of all members of the Council that in a particular case an officer or member of his family will not have a pecuniary interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation: and final and conclusive in like case as to those who sell services or goods to the city.

(d) No officer shall stand as surety on any bond to the city or give any bail for any other person which may be required by the charter or any ordinance of the city. Any officer of the city who violates the provisions of this paragraph shall be guilty of misconduct in office.

Editor's note(s)—The above section is superseded by MCL 15.321 et seq., MSA 4.1700(51) et seq. *See* MCL 15.328, MSA 4.1700(58).

Section 5.14. Compensation of Employees and Officers:

(a) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the Council.

(b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services.

Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers or employees, and be paid into the city treasury and a statement thereof filed periodically with the City Administrator. The provisions of paragraph (b) of this section shall not apply to any fees, commissions or other compensation paid by the County of Oakland to any officer or employee serving as a city representative on the Board of Supervisors; nor to any compensation paid a representative of the city by any Metropolitan District authority or board for service thereon.

(c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the city when authorized by the Council.

Editor's note(s)—Insofar as the last paragraph of subsection (b) relates to service on the county board of supervisors, it is superseded by MCL 46.401 et seq., MSA 5.359(1) et seq. Members of the county board of supervisors now are elected by the voters of the county.

Section 5.15. Employee Welfare Benefits:

The Council shall have the power to make available to the administrative officers and employees of the city and its department and boards any recognized standard plan of group life, hospital, health, or accident insurance.

Section 5.16. Anti-Nepotism:

The following relatives and their spouses of any elective official or of his spouse are disqualified from holding any appointive office or employment during the term for which said elective official was elected: child, grandchild, parent, grandparent, brother, sister, half brother and half sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of said elective official.

Section 5.17. Merit System:

The Council may provide for a merit system for city employees.

State law reference(s)—Permissible charter provisions, MCL 117.4i(h), MSA 5.2082, (h).

CHAPTER 6. THE COUNCIL: PROCEDURE AND MISCELLANEOUS POWERS AND DUTIES

Section 6.1. Regular Meetings:

The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month. An organizational meeting shall be held on the Monday following each regular city election.

Section 6.2. Special Meetings:

Special meetings shall be called by the Clerk on the written request of the Mayor, the City Administrator or any two members of the Council on at least twenty-four hours written notice to each member of the Council, served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

State law reference(s)—Notice of special meetings, MCL 15.265(4), MSA 4.1800(15), (4).

Section 6.3. Business at Special Meetings:

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

Section 6.4. Meetings to be Public:

All regular and special meetings of the Council shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe.

State law reference(s)—Mandatory that charter require compliance with open meetings act, MCL 117.3(l), MSA 5.2073, (l); open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

Section 6.5. Quorum: Adjournment of Meeting:

A majority of the members of the Council in office at the time shall be a quorum for the action of business at all Council meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in absence of all members the Clerk may adjourn any meeting for not longer than one week.

Section 6.6. Compulsory Attendance and Conduct at Meetings:

Any two or more members of the Council may by vote either request or compel the attendance of its members and other officers of the city at any meeting of the Council. Any member of the Council or other officer who when notified of such request for his attendance fails to attend such meeting for reasons other than confining illness or absence from Oakland County shall be deemed guilty of misconduct in office unless excused by the Council. The presiding officer shall enforce orderly conduct at meetings and any member of the Council or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

Any police officer designated by the presiding officer of the meeting shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

Section 6.7. Organization and Rules of the Council:

The Council shall determine its own organization, rules and order of business subject to the following provisions:

(a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and clerk of the meeting.

State law reference(s)—Mandatory that charter provide for keeping legislative journal in English, MCL 117.3(m), MSA 5.2073, (m).

(b) A vote upon all ordinances and resolutions shall be taken by "Yes" and "No" vote and entered upon the records.

(c) No member of the Council shall vote on any question in which he has a financial interest, other than the common public interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.

(d) In all roll call votes the names of the members of the Council shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.

(e) The proceedings of the Council, or a brief summary thereof, shall be published within fifteen days following each meeting. Any such summary shall be prepared by the Clerk and approved by the Mayor and shall show the substance of each separate proceeding of the Council.

(f) There shall be no standing committees of the Council.

Section 6.8. Investigations:

The Council or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters thereto pertaining in which the municipality has an interest. The Council for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this charter and such person when found guilty of such violation by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court.

It is provided further that, in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the Council may invoke the aid of the Circuit Court of Oakland County in requiring obeyance of such summons or production of such books, papers and other evidence.

Section 6.9. Providing for Public Health and Safety:

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. The Council shall constitute the Board of Health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

State law reference(s)—Mandatory that charter provide for the public peace and health and for the safety of persons and property, MCL 117.3(j), MSA 5.2073, (j); local health departments, MCL 33.2401 et seq., MSA 14.01(2401) et seq.

CHAPTER 7. LEGISLATION

Section 7.1. Interim Legislation:

The valid provisions of all bylaws, ordinances, resolutions, rules and regulations of the Township of Southfield which are not inconsistent with this charter and which are in force and effect and lawfully applicable to the territory of Lathrup Village, at the time of the effective date of this charter, shall continue in full force and effect and be administered by and for the city until and unless repealed or amended under provisions hereof or rendered invalid by law; provided, however, that, if any such bylaw, ordinance, resolution, rule or regulation provides for the appointment by the township board or Supervisor of any officer or member of a board or commission, future appointments of such persons shall be made by the Council. Fees originally payable to the township under such provisions as to said territory, hereafter shall be paid to the city.

Those provisions of any such bylaw, ordinance, resolution, rule or regulation which are inconsistent with this charter, are hereby repealed as to their application to such territory.

Any reference in any such bylaw, ordinance, resolution, rule or regulation to a Board or Commission shall be construed to refer instead to the Council.

Editor's note(s)—Charter § 7.1 is obsolete. The adoption of the new Code repeals all ordinances other than those listed in Code § 1-12. Township ordinances are not listed in such section.

Section 7.2. Ordinances and Resolutions:

All official action of the Council shall be by ordinance, resolution, motion or order. All acts of the Council carrying a penalty for the violation thereof shall be by ordinance. Each ordinance shall be identified by a short title and by a number and by a code section number if and when the codification of ordinances is completed.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of Lathrup Village ordains:".

State law reference(s)—Mandatory that charter provide for ordinance adoption procedures, MCL 117.3(k), MSA 5.2073, (k).

Section 7.3. Enactment, Amendment, Repeal and Effective Date of Ordinances:

Subject to the statutes and to the exceptions which follow hereafter, (a) ordinances may be enacted by the affirmative vote of not less than a majority of the members elect of the Council, (b) no ordinance shall be amended or repealed except by an ordinance adopted as aforesaid, (c) no ordinance shall be enacted at the meeting at which it is introduced nor until after publication of the proceedings or summary thereof of such meeting (which proceedings or summary shall include a statement of its title and purpose) and (d) the effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than ten days after enactment nor before publication thereof.

It is provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health or safety may be enacted at the meeting at which it is introduced or before publication of the proceedings of the meeting at which it is introduced, or may be given earlier effect than ten days after its enactment, or all three, by four affirmative votes if four or five members of the Council are present at the meeting at which it is enacted or by three affirmative votes if three members of the Council are present at the meeting at which it is enacted.

In case an ordinance is given effect earlier than ten days after its enactment, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three public places in the city, provisions of this charter notwithstanding; and the Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance a certificate under his hand stating the time and place of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation. Such ordinance shall also be published in accordance with Section 7.4 but not as a requirement for the effectiveness thereof.

No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of Section 14.2.

No ordinance shall be amended by reference to its title only, but the revised sections of the ordinance, as amended, shall be reenacted and published in full. However, an ordinance or section thereof may be repealed by reference to its title and ordinance or code number only.

State law reference(s)—Mandatory that charter provide for ordinance adoption procedures, MCL 117.3(k), MSA 5.2073, (k).

Section 7.4. Publication and Recording of Ordinances:

Each ordinance shall be published within ten days after its enactment in one of the following two methods: (a) The full text thereof may be published in a newspaper as defined in Section 17.4, or (b) in cases or ordinances over five hundred words in length a digest, summary or statement of purpose of the ordinance, approved by the Council, may be published in a newspaper as defined in Section 17.4, either separately or as part of the published Council proceedings or summary thereof, including with such newspaper publication a notice that printed copies of the full text of the ordinance are available for inspection by and distribution to the public at the office of the Clerk; if method (b) is used, then printed copies shall promptly be so made available as stated in such notice.

All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book," and it shall be the duty of the Mayor and Clerk to authenticate such records by their official signatures thereon but the failure to so record and authenticate any such ordinance shall not invalidate it or suspend its operation.

State law reference(s)—Mandatory that charter provide for ordinance adoption procedures, MCL 117.3(k), MSA 5.2073, (k).

Section 7.5. Penalties for Violations of Ordinances:

Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court.

State law reference(s)—Permissible charter provisions, MCL 117.4i(10), MSA 5.2082, (10).

Section 7.6. Special Requirements for Certain Council Actions:

(a) Action to vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof, shall be subject to the provisions of statute and shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing thereon and shall post or publish notices of such hearing at least one week prior thereto.

(b) The following actions shall require the affirmative vote of four members of the Council for the effectiveness thereof:

(1) Vacating, discontinuing or abolishing any highway, street, lane, alley or other public place or part thereof;

(2) Purchasing, selling or leasing of any real estate or interest therein;

(3) Authorizing the condemning of private property for public use;

(4) Creating or abolishing any office;

(5) Appropriating any money;

(6) Imposing any tax or assessment;

(7) Reconsidering or rescinding any vote of the Council.

(c) The Council shall not have power to engage in any business enterprise requiring an investment of money in excess of the amount permitted to be so invested by statute unless approved by a three-fifths vote of the electors voting thereon at any general or special election.

Section 7.7. Enactment of Technical Codes by Reference:

Where permitted by the Home Rule Act, the Council may adopt in whole or in part any provision of state law or any detailed technical regulations as a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city; and where any code, or amendment thereto, is so adopted, all requirements for its publication may be met, other provisions of this charter notwithstanding, by (1) publishing the ordinance citing such code in the manner provided for the publication of other ordinances and (2) by making available to the public copies of the code cited therein in book or booklet form at a reasonable charge.

State law reference(s)—Adoption of technical codes by reference, MCL 117.3(k), MSA 5.2073, (k).

Section 7.8. Severability of Ordinances:

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portion or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

Section 7.9. Compilation and Codification of Ordinances:

Within two years after the effective date of this charter, and in the discretion of the Council thereafter, the Council shall direct the compilation or codification and printing in loose-leaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. All requirements for publication of such compilation or codification, and of the ordinances contained therein, other provisions of this charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public at a reasonable charge and by publishing notice of the printing and availability thereof.

The copies of the ordinances and of any compilation, code or codes referred to in the charter may be certified by the Clerk and when so certified shall be competent evidence in all courts and legally established tribunals as to the matter contained therein.

State law reference(s)—Authority to codify ordinances, MCL 117.5b, MSA 5.2084(2).

Section 7.10. Initiative and Referendum:

An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, as hereinafter provided.

Section 7.11. Initiatory and Referendary Petitions:

An initiatory or a referendary petition shall be signed by not less than ten percent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the Clerk. Any such petition shall be addressed to the Council and may be the aggregate of two or more petition papers identical as to contents and simultaneously filed by one person. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or part thereof, or code sections it proposes to have repealed.

Each signer of a petition shall sign his name, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the city, the Clerk shall notify forthwith by registered mail the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

Section 7.12. Council Procedure on Initiatory and Referendary Petitions:

Upon the presentation to the Council of an initiatory or referendary petition by the Clerk, the Council shall, within thirty days, unless otherwise provided by statute, either,

(a) Adopt the ordinance as submitted by an initiatory petition;

(b) Repeal the ordinance, or part thereof, referred to by a referendary petition; or

(c) Determine to submit the proposal provided for in the petition to the electors.

Section 7.13. Submission of Initiatory and Referendary Ordinances to Electors:

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the Council at a special election called for that specific purpose; but no election on an initiative or a referendum petition shall be held sooner than fifty days after the Council determines to submit it. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred fifty days from the time the petition is presented to the Council and the Council does not enact the ordinance, then the Council shall call a special election within sixty days from such date of presentation for the submission of the initiative proposal. The result of all elections held under the provisions of this section shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the Constitution.

Section 7.14. Ordinance Suspended; Miscellaneous Provisions on Initiatory and Referendary Petitions:

The presentation to the Council by the Clerk of a valid and sufficient referendary petition shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors: but there shall be no suspension pending a repeal if the ordinance has been in force more than six months.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this chapter or if submitted to the electorate by the Council on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinances receiving the highest number of affirmative votes shall govern.

CHAPTER 8. GENERAL FINANCE—BUDGET, AUDIT[3]

Section 8.1. Fiscal Year:

The fiscal year of the city and of all its agencies shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Section 8.2. Budget Procedures:

The City Administrator shall prepare and submit to the Council on the third Monday in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

(a) Detailed estimates with his supporting explanations of all proposed expenditures for each department, office, and agency of the city, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current year;

(b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated revenues of the city from sources other than taxes with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to March first, and estimated revenues for the balance of the current fiscal year;

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

[3]State law reference(s)—Municipal Finance Act, MCL 133.1a et seq., MSA 5.3188(1) et seq.; uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting information as the Council may request.

[Section 8.3. Reserved.]

Section 8.4. Budget Hearing:

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the Council shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the Clerk shall be published at least one week in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one week prior to such hearing.

Section 8.5. Adoption of Budget:

Not later than the third Monday in May in each year, the Council shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section 9.1.

State law reference(s)—Mandatory that charter provide for annual appropriation of money, MCL 117.3(f), MSA 5.2073, (f).

Section 8.6. Budget Control:

Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council by resolution may transfer any unencumbered appropriation balance, or any portion thereof from one account, department, fund or agency to another.

The Council may make additional appropriations during the fiscal year for unanticipated expenditures required of the city, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure then charged to such account.

At the beginning of each quarterly period during the year, and more often if required by the Council the City Administrator shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council shall reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund.

Section 8.7. Depository:

The Council shall designate depositories for city funds and shall provide for the regular deposit of all city moneys. The Council shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

State law reference(s)—Deposit of public moneys, MCL 211.43b, MSA 7.86.

Section 8.8. Independent Audit: Annual Report:

An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the Council. Such audit shall be made by a Certified Public Accountant experienced in municipal accounting selected by the Council.

The City Administrator shall prepare an annual report of the affairs of the city including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the City Administrator within thirty days after receipt of the audit.

CHAPTER 9. TAXATION[4]

Section 9.1. Power To Tax: Tax Limit:

The city shall have the power to assess taxes and levy and collect rents, tolls, and excises. Exclusive of any levies authorized by statute to be made beyond Charter tax rate limitations, the annual ad valorem tax levy shall not exceed 20 Mills of the assessed value of all real and personal property subject to taxation in the city for general government purposes.

(Approved 4-22-1992; Amended 11-4-2003)

State law reference(s)—Permissible that charter provide for laying and collecting rents, tolls and excises, MCL 117.4i(1); mandatory that charter provide for annual tax levy not to exceed two percent of assessed value, MCL 117.3(g).

Section 9.2. Subjects of Taxation:

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by statute.

State law reference(s)—Mandatory that charter so provide, MCL 117.3(f), (g); taxation generally, MCL 211.1 et seq.

Section 9.3. Exemptions:

No exemptions from taxation shall be allowed except as expressly required or permitted by statute.

State law reference(s)—Exempt property, MCL 211.7 et seq.

[4]State law reference(s)—Mandatory that charter provide for tax procedure, MCL 117.3(i).

Section 9.4. Tax Day:

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the first day of January, which shall be deemed the tax day.

Editor's note(s)—The date for determining taxable status is December 31. *See* MCL 211.2(2).

Section 9.5. Preparation of the Assessment Roll:

On or before the first Monday in March in each year the Assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

On or before the first Monday in March the Assessor shall give by first class mail a notice of any increase over the previous year in the value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

State law reference(s)—Assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

Section 9.6. Board of Review:

The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in Section 5.1 and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the Board of Review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. One member of the Board shall be appointed by the Council in January, 1955, and in each January thereafter for a term of three years, to replace the member whose term expires that year. The Council shall fix the compensation of the members of the Board. The Board of Review shall annually in February select its own chairman for the ensuing year, and the Assessor shall be clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

State law reference(s)—Board of review, MCL 211.28—211.33, 211.07, MSA 7.28—7.33, 7.161.

Section 9.7. Meetings of the Board of Review:

The Board of Review shall convene in its first session on the date, time of day and place as shall be designated by the Council and shall remain in session for at least eight hours for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the date, at such time of day and place as shall be designated by the Council and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. At the second session, the Board may not increase any assessment or

add any property to the rolls, except in those cases in which the Board resolved at its first session to consider such increase or addition at its second session.

State law reference(s)—Meetings of board of review, MCL 211.29, 211.30, MSA 7.29, 7.30.

Section 9.8. Notice of Meetings:

Notice of the time and place of the annual sessions of the Board of Review shall be published by the Clerk at least ten days prior to the first session of the Board in each year.

Section 9.9. Duties and Functions of Board of Review:

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of review in cities generally. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to, the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

State law reference(s)—Functions of board of review, MCL 211.29—211.30a, MSA 7.29—7.30(1).

Section 9.10. Endorsement of Roll:

After the Board of Review has completed its review of the assessment roll as required by statute, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

State law reference(s)—Completion of rolls, MCL 211.30a, MSA 7.30(1).

Section 9.11. Clerk to Certify Tax Levy:

Within three days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

Section 9.12. City Tax Roll:

After the Board of Review has completed its review of the original assessment roll, the Assessor shall prepare a copy of such assessment roll to be known as the "City Tax Roll", and upon receiving the certification of the several amounts to be raised, as provided in Section 9.11, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall use such original assessment roll in spreading the amounts of the general ad valorem county tax and school tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

State law reference(s)—Deadline for certification of levy, MCL 211.216, MSA 7.76.

Section 9.13. Tax Roll Certified for Collection:

After spreading the taxes the Assessor shall certify the tax roll, and the Mayor shall annex his warrant thereto directing and requiring the Treasurer to collect, prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June first the roll shall be delivered to the Treasurer for collection.

Section 9.14. Tax Lien on Property:

On July first the taxes thus assessed shall become a debt due to the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

State law reference(s)—Tax liens, MCL 211.40, MSA 7.81.

Section 9.15. Taxes Due: Notification Thereof:

City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall (a) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and (b) mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed.

Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or nonpayment of the same.

Editor's note(s)—Taxes are now due on December 31. *See* MCL 211.40, 211.2(2), MSA 7.81, 7.2, (2).

Section 9.16. Interest on Late Payment of Taxes:

All taxes paid on or before the thirty-first day of August shall be collected by the Treasurer without additional charge. On September first he shall add to all taxes paid thereafter four percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one-half of one percent of said taxes that remain unpaid. Such penalty shall not exceed six percent and shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the Treasurer, as provided in Section 9.13, is delayed for any reason by more than thirty days after June first, the application of the penalty charge provided herein shall be postponed for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

State law reference(s)—Interest on unpaid taxes, MCL 211.44, MSA 7.87.

Section 9.17. Failure or Refusal to Pay Personal Property Tax:

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the Treasurer, under state jurisdiction and under provisions of State Law, shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue in accordance with statute, the person, firm or corporation to whom it is assessed.

State law reference(s)—Seizure of property, MCL 211.47 et seq., MSA 7.91 et seq.

Section 9.18. Delinquent Tax Roll to County Treasurer:

All city taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Oakland is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statutes for the collection of delinquent township, school and county taxes.

State law reference(s)—Tax collections, MCL 211.44 et seq., MSA 7.87 et seq.

Section 9.19. State, County and School Taxes:

For the purpose of spreading and collecting taxes for state, county and school purposes, the city shall be considered the same as a township, and all provisions of statute relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as township treasurers under statute.

CHAPTER 10. BORROWING POWER[5]

Section 10.1. Grant of Authority to Borrow:

Subject to the applicable provisions of law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

(a) General obligation bonds which pledge the full faith, credit and resources of the city for the payment of such obligations; when authorized by a three-fifths vote of those electors having the Constitutional

[5]State law reference(s)—Permissible that charter contain provisions re: borrowing funds, MCL 117.4a et seq., MSA 5.2074 et seq.; Municipal Finance Act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

qualifications for voting on the issuance of general obligation bonds voting thereon at any general or special election;

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by Section 9.5;

(c) In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the city and for the preservation of municipal property;

(d) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an obligation of the special assessment district or districts alone or may be both an obligation of the special assessment district or districts and a general obligation of the city;

(e) Mortgage bonds for the acquiring, owning, purchasing constructing, improving, or operating of any public utility which the city is authorized by this charter to acquire or operate; provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. Such bonds shall be authorized by a three-fifths vote of the electors voting thereon at any general or special election. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required;

(f) Bonds for the refunding of the funded indebtedness of the city;

(g) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

Section 10.2. Limits of Borrowing Powers:

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections: 10.1(b) (tax anticipation notes), 10.1(d) (special assessment bonds even though they are also a general obligation of the city), 10.1(e) (mortgage bonds), 10.1(g) (revenue bonds), and any other obligations excluded by statute or Constitution from such limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

The amount of emergency loans which may be made under the provisions of Section 10.1(c) may not exceed the maximum amount permitted by statute, and such a loan may be made even if it causes the indebtedness of the city to exceed the limit of net bonded indebtedness fixed in this charter.

The total amount of such special assessment bonds issued under Section 10.1(d) which are a general obligation of the city shall at no time by reason of future issues other than issues of refunding bonds, exceed the maximum amount permitted by statute, nor shall such bonds be issued in any calendar year in excess of the maximum amount so permitted to be issued by statute unless authorized by a majority vote of the electors in the manner required by statute.

State law reference(s)—Referenda required on certain bond issues, MCL 117.5(e), MSA 5.2084, (e).

Section 10.3. Applicability of Other Statutory Restrictions:

The issuance of any bonds not otherwise requiring the approval of the electors shall be subject to applicable requirements of any statute with reference to public notice in advance of the authorization of such issues, filing of petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

Section 10.4. Preparation and Record of Bonds:

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office, except that whenever the proceeds of any bond issue or part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of such issue. All bonds and other evidences of indebtedness issued by the city shall be signed by the Mayor and countersigned by the Clerk, under the seal of the city. Interest coupons may be executed with the facsimile signature of the Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the City Administrator. Upon the payment of any bond or other evidence of indebtedness, the same shall be "Cancelled."

Section 10.5. Unissued Bonds:

No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not sold within five years after authorization, said authorization shall, to such bonds, be null and void, and such bonds shall be cancelled.

Section 10.6. Deferred Payment Contracts:

The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years nor shall the total amounts of principal payable under all such contracts exceed the sum of five thousand dollars in any one fiscal year of the city.

All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. SPECIAL ASSESSMENTS[6]

Section 11.1. General Power Relative to Special Assessments:

The Council shall have the power to determine by resolution that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived, provided that the property owners of seventy percent of the frontage to be benefited by such public improvement shall petition therefor. The Council may also exercise such power on its own initiative, provided that no such resolution may be adopted if the property owners of thirty percent or more

[6]State law reference(s)—Special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

of frontage to be benefited by such public improvement shall object in writing to the Council prior to the close of the public hearing on the advisability of proceeding required by Section 11.2(a).

(Approved 11-8-1977)

Section 11.2. Detailed Procedure to be Fixed by Ordinance:

The Council shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

(a) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(b) No special assessment roll shall be finally confirmed until after a meeting of the Council has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(c) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

(d) No special assessment district or districts shall be created by the Council for any one public improvement which includes property having an area in excess of twenty-five percent of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

State law reference(s)—Special assessment notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.

Section 11.3. Special Assessment Powers:

The Council shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

(a) For the construction of public parking facilities as a public improvement financed in whole or part by the special assessment method.

(b) For installing a boulevard lighting system on any street as a public improvement to be financed in whole or part by special assessment upon the lands abutting thereupon, provided that the property owners of seventy percent of the frontage on such street or part thereof to be so improved shall petition therefor.

(c) For the payment of special assessments in annual installments not to exceed ten in number. The first such installment to be due upon confirmation of the special assessment roll, and subsequent installments to be due on July first of succeeding years and to be placed upon the annual city tax roll if delinquent, and for an interest charge only until the due date of each such deferred installment not to exceed six percent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

Section 11.4. Disposition of Excessive Special Assessments:

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the city. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness in whole or part by such special assessment.

Section 11.5. Additional Assessment; Correction of Invalid Special Assessments:

Whenever any special assessment shall, in the opinion of the Council be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment refunds shall be made.

No judgment or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the city upon the premises for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceeding might have been lawfully assessed thereupon.

Section 11.6. Contested Assessments:

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (a) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

Section 11.7. Collection of Special Assessments:

Upon the confirmation of each special assessment roll the special assessments shall become a debt to the city from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessment and all interest and charges thereon. Such lien shall be of the same character and effect as created by this charter for city taxes.

Special assessments, or installments thereof, which become due on July first of any year shall be collected in all respects as are city taxes due on July first of the same year, and if uncollected on the following first day of March, shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

The initial special assessment installments which become due other than on July first shall, if unpaid for ninety days or more on May first of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessments on the tax roll for that year together with accrued interest to July first of such year. The total amount of such assessment and interest shall thereafter be collected in all respects as are city taxes due on July first of that year, shall be subject to the same fees and penalties as are city taxes due on that date and if uncollected on the following March first shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

State law reference(s)—Deferment of special assessments for certain older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.

Section 11.8. Special Assessment Accounts:

Except as otherwise provided in this charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

Section 11.9. Assessment for Removal of Hazards, Etc.:

The assessment for the cost of the abatement of any hazard or nuisance to be made pursuant to Section 2.2(q) or Section 2.2(r), or for the cost of removing snow, ice or other obstructions from sidewalks to be made pursuant to Section 2.2(s), or removing weeds pursuant to Section 2.2(t), shall be made by resolution of the Council. Notice of the time at which the Council will act thereon shall be given by first class mail to the owner of the property to be assessed as shown by the current tax roll of the city, except that no notice shall be required in the case of assessments for the removal of weeds, snow or ice. For the purposes of collection of such assessment, the adoption of such resolution shall be equivalent to the confirmation of a special assessment roll. The amount of any such assessment shall become a debt to the city upon adoption of such resolution, be due at such time as the Council shall prescribe, and shall be subject to the collection fees and become a lien as provided in Section 11.7. Every such assessment shall also be subject to Sections 11.4, 11.5 and 11.6.

Section 11.10. Failure to Mail Notice:

Failure to mail any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

CHAPTER 12. PURCHASES—CONTRACTS—LEASES

Section 12.1. Purchases and Sale of Property:

The City Administrator shall be responsible for the purchase and sale of all city property.

Comparative prices shall be obtained for the purchase or sale of all materials, services, supplies and public improvements and formal bids shall be required as outlined below except: (a) in the employment of professional services or (b) when the City Administrator shall determine that no advantage to the City would result.

The City Council shall establish by Ordinance those sales or purchases which must be approved by the Council, and those sales or purchases which shall require the solicitation of sealed bids. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made form [from] the lowest competent bidder meeting specifications unless the Council shall determine that the public interest will be better served by accepting a higher bid. Sales shall be made to the bidder whose bid is most advantageous to the city. All such bids shall be publicly opened at an announced time and place, and the contract shall be awarded at a regular or special City Council meeting.

The Council shall, by Ordinance or Resolution, establish detailed purchasing, sale and contract procedures, including procedures for written contracts and purchase orders, not inconsistent with this Charter.

All purchases and sales shall be evidenced by written contract or purchase order.

The City may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The City may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council.

The purchase and sale of all City property shall be subject to the provisions of Section 5.13.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

(Approved 11-6-1979, approved 11-5-1996)

State law reference(s)—Restrictions on sale of parks and cemeteries, MCL 117.5(e), MSA 5.2084, (e).

Section 12.2. Contracts:

The authority to contract on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of statute and of this charter, provided that purchases and sales may be made by the City Administrator subject to the provisions of Section 12.1.

Council shall, by Ordinance or Resolution, establish the amount of any contract or agreement made with form or terms other than the standard city purchase order form which shall before execution be submitted to the Attorney and an opinion obtained with respect to its form and legality. A copy of all contracts or agreement requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the city to pay an amount of five hundred dollars or more is executed the accounting officer of the city shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract under authority of Section 10.6. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purchase [purpose] of circumventing the dollar value limitations contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Administrator may amend contracts for those purchases and sales made by him under the authority of Section 12.1.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation in default to the city.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the city.

(Approved 11-5-1996)

Section 12.3. Restriction on Powers to Lease Property:

Any agreement or contract for the renting or leasing of public property to any person for a period longer than three years shall be subject to the same referendum procedure as provided in the case of ordinances passed

by the Council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the Council but approval of such transfer shall not be subject to referendum.

Rentals and leases and renewals thereof shall be for a fair consideration as determined by the Council.

CHAPTER 13. MUNICIPAL UTILITIES

Section 13.1. General Powers Respecting Utilities:

The city shall possess and hereby reserves to itself all the powers granted to cities by statute and Constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, sewage treatment and refuse disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and Constitution.

State law reference(s)—Charter may provide for acquisition, etc., of utilities, MCL 117.4c, MSA 5.2076; authority to operate, acquire, etc., utilities, MCL 141.104, MSA 5.2734; authority to acquire, operate, etc., water systems, MCL 124.251 et seq., MSA 5.2533(1) et seq.

Section 13.2. Management of Municipal Utilities:

All municipally owned or operated utilities shall be administered as a regular department of the city government under the management and supervision of the City Administrator.

Section 13.3. Rates:

The Council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the city.

Section 13.4. Utility Rates and Charges—Collection:

The Council shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinances shall provide at least:

(a) That the city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance.

(b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.

(c) That suit may be instituted by the city before a competent tribunal for the collection of such rates or charges.

With respect to the collection of rates charged for water the city shall have all the powers granted to cities by Public Act No. 178 of 1939 (MCL 123.161 et seq., MSA 5.2531(1) et seq.).

Section 13.5. Disposal of Utility Plants and Property:

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, license, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

State law reference(s)—Charter may provide for sale of capital assets of municipally owned utility, MCL 117.4e(3), MSA 5.2078, (3).

Section 13.6. Utility Finances:

The rates and charges for any municipal public utility for the furnishing of water, shall be so fixed as to at least meet all the costs of such utility.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

The Council may require a special report at any time as to any municipal utility. Charges for the privilege of hereafter making connection with, and for service given by, any municipal utility may be established or changed by ordinance of the Council where not prescribed otherwise by law. Any such ordinance shall be subject to referendum under Chapter 7. At such times as the Council deems advisable, it may transfer surplus revenue from the account of any utility to the general fund of the city.

Section 13.7. City Water System:

(a) The Council may take steps to acquire, operate and maintain the water supply system of pipes, fire-hydrants, water-meters and pumping stations, title to which, on the effective date hereof, is in the City of Detroit. Provided: that such action by the Council can be taken on commitments heretofore made by the existing owners and operators thereof that a grant of the system will be made to the new city without payment of any part of the capital cost heretofore made by them.

(b) The Council may negotiate for the city a membership in the Southeastern Oakland County Water Authority, for the purpose of gaining an additional wholesale water supply for the city.

CHAPTER 14. PUBLIC UTILITY FRANCHISES[7]

[7]State law reference(s)—Permissible that charter provide for use of streets and other public ways, MCL 117.4h(2), MSA 5.2081, (2).

Section 14.1. Granting of Public Utility Franchises:

Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the Council may be enacted by the Council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the Clerk for public inspection for at least four weeks after publication of a notice that such ordinance is so on file.

State law reference(s)—Franchises limited to 30 years, Mich. Const. 1963, art. VII, § 30; submission of irrevocable franchise to electors required, Mich. Const. 1963, art. VII, § 25; expenses of special elections to approve franchises to be submitted to voters, MCL 117.5(i), MSA 5.2084, (i).

Section 14.2. Conditions of Public Utility Franchises:

All public utility franchise granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the city to impose or require:

(a) To repeal the same for misuse, nonuse or failure to comply with the provisions thereof;

(b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(e) To use, control and regulate the use of its streets, bridges and other public places and the space above and beneath them;

(f) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Section 14.3. Regulations of Rates:

All public utility franchises shall make provision therein for fixing rates, fares and charges and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing

such rates, fares and charges shall in no event include a value predicted upon the franchise, good-will or prospective profits.

Section 14.4. Use of Public Places by Utilities:

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets and other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

CHAPTER 15. SUPERVISORS[8]

Section 15.1. Number of Supervisors:

The city shall have the number of representatives on the Oakland County Board of Supervisor to which it is entitled by statute.

Section 15.2. Appointment of Supervisors:

The representatives of the city on the Board of Supervisor shall be appointed by the Council for an indefinite period and may be removed at the will of the Council. Such representatives shall be qualified electors of the city, shall have been residents of the city for at least two years immediately prior to their appointment and may hold other elective or appointive city office or employment. In case any representative of the city on the Board of Supervisors shall be unable to perform the duties of his office for reasons of physical disability, the Council may appoint another qualified person to serve temporarily in his stead.

Section 15.3. Duties of Supervisors:

Except as otherwise provided in this charter, the representatives of the city on the Board of Supervisors shall perform the statutory duties of supervisors. In the performance of his duties each Supervisor shall represent the city, its habitants and its government to the best of his ability.

Section 15.4. Compensation of Supervisors:

Representatives of the city on the Board of Supervisors who are not city officers or employees shall be entitled to retain any compensation and expense allowances paid to them by the county as members of the Board of Supervisors, but shall receive no compensation from the city for their work as Supervisors.

CHAPTER 16. COURT[9]

[8]Editor's note(s)—The provisions of charter chapter 15 are superseded by MCL 46.401 et seq., MSA 5.359(1) et seq.

[9]Editor's note(s)—Charter chapter 16 is obsolete. *See* MCL 600.9921, 600.9930, MSA 27A.9921, 27A.9930.

Section 16.1. Establishment of Court:

There is hereby established a Court in the city. The presiding officer of such Court shall be a Justice of the Peace elected in accordance with the provisions of this charter. This Court is created under the authority of Section 28 of Public Act No. 279 of 1909.

Section 16.2. Qualifications of Presiding Officer of Court:

The presiding officer of the Court shall (a) meet the qualifications for the office contained in Section 5.1 and (b) shall be an attorney in good standing admitted to practice law in the Supreme Court of this state on the last day for filing supplemental petitions for such office, or at the time of his appointment to fill a vacancy, and throughout his term of office, unless none of the candidates be so qualified. Neither the Justice nor any business partners or employees of his law offices shall try any case in the City of Lathrup Village Justice Court.

Section 16.3. Compensation of Presiding Officer:

The presiding officer of the Court shall receive such annual compensation as shall be fixed by ordinance, but not less than three hundred dollars.

The ordinance fixing his salary may not be amended less than sixty days before the next regular election at which a person is to be elected to office nor may the compensation of the office be changed during the term of office for which he was elected or appointed. Until otherwise provided by ordinance the salary of the office shall be three hundred dollars per year.

The salary for the office provided by charter or ordinance shall be in lieu of all fees, both in civil and criminal cases, to which the presiding officer might be entitled but for the provisions of this section, except those for the performance of marriage ceremonies and for administering oaths in matters not connected with suits and proceedings in his court.

The compensation paid to any substitute Judge or Justice to whom a case is transferred under the provisions of Section 16.10 shall be that prescribed by the Council.

Section 16.4. Bond:

The presiding officer of the Court shall, before entering upon the duties of his office, give bonds to the Treasurer of the County of Oakland in such sum as is provided by statute and to the City of Lathrup Village in like amount. Such bonds shall be subject to the provisions of Section 5.11.

Section 16.5. Jurisdiction of Court:

(a) *General Jurisdiction.* The Court shall have and exercise within the City of Lathrup Village and Oakland County the same jurisdiction, powers and duties as are or may be conferred upon or required of justices of the peace in cities and townships by statute and shall be subject to such statutes with respect to such justices except as otherwise provided in this charter. The Court shall have concurrent jurisdiction with other justices in Oakland County as to all crimes, offenses and misdemeanors alleged to have been committed within Oakland County, whether within or without the city. The proceedings in all suits and actions before the Court shall except as otherwise provided in this charter be according to and governed by the statutes applicable to justice courts and to the proceedings before such courts.

(b) *Charter and Ordinance Cases.* The Court shall have authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this charter and

the ordinances of the city, and to punish offenders for the violation of such charter and ordinances as in the charter or ordinances prescribed and directed.

(c) *Extended Jurisdiction.* The Court shall also have jurisdiction to the amount of five hundred dollars in all civil matters ex contractu and ex delicto with such exceptions and restrictions as are provided by law.

(d) *Causes Where All Parties are Residents of City.* The Court, shall have exclusive jurisdiction, concurrent jurisdiction of courts of record excepted, in causes or proceedings where all the parties to the same reside in said city at the time of the commencement of the proceeding or cause, and in case where the original cause of action existed in favor of a plaintiff and against a defendant both residents of the city, and has been assigned to a nonresident of said city. This jurisdiction is granted pursuant to the provisions of section 10 of chapter LXVI of Public Act No. 314 of 1915.

(e) *Setting Aside Verdicts.* The Court shall have such power and authority as can under section 28 of Public Act No. 279 of 1909 be conferred by this charter to set aside the verdict or judgment in any civil cause and grant a new trial therein, to be exercised in such manner and on such conditions as provided in said act. The filing of a motion for new trial or to set aside a verdict or judgment shall have such effect on the time for taking an appeal from any judgment and upon the issuance and levy of execution or other similar process and sale thereunder and on other proceedings in said cause as provided in said act.

(f) *Additional Authority.* The Court shall have such additional jurisdiction, powers and duties as may now or hereafter be conferred upon such courts by statute.

Section 16.6. Fees and Costs:

The Council shall within ninety days after the effective date of this charter enact an ordinance establishing and fixing the fees and costs which may be taxed by the Court in all civil matters and in all cases for violations of the charter or city ordinances, and fixing fees and costs not inconsistent with statute in criminal matters.

Section 16.7. Disposition of Fees, Costs and Fines; Fees in State Criminal Cases:

(a) *Civil Cases.* All fees in civil cases shall be collected by the Court and turned over to the City Treasurer on or before the first day of the next month after collection or receipt thereof and shall be credited to the general fund of the city.

(b) *State Criminal Cases.*

(1) All fees and costs in state criminal cases shall be charged and presented to and audited by the Board of Supervisors of Oakland County, in the same manner and amounts as provided by law in the cases of justices of the peace in townships, and upon allowance by said Board, shall be paid monthly by said county to the City Treasurer for the use and benefit of the city and shall be credited to the general fund of the city. The expenses of prosecution before the Court for violations of criminal statutes and in punishing the offenders thereof shall be paid by the County of Oakland.

(2) All fees, costs, penalties and forfeitures imposed by the Court in state criminal cases shall be paid over by the Court to the County Treasurer within thirty days after the receipt thereof.

(c) *Charter and Ordinance Violations.* All fines, costs, penalties, forfeitures and moneys collected or received by the Court on account of violations of any provisions of the charter or ordinances of the city shall be paid over by the Court to the City Treasurer on or before the first day of the next month after collection or receipt thereof and shall be credited to the general fund of the city.

(d) *Failure to Comply.* Failure of the presiding officer of the Court to comply with the provisions of this section shall constitute misconduct in office.

Section 16.8. Place and Conduct of Court; Annual Report:

The Council shall furnish necessary supplies and a suitable place for conducting Court. It may regulate the hours of court and may make other necessary and proper rules and regulations for the conduct of the business of the Court which are not inconsistent with this charter or statute.

The presiding officer of the Court shall file with the Council promptly after the end of each month a report of the Court in such manner as the Council shall prescribe.

Section 16.9. Docket:

There shall be kept at the place of holding Court a docket or dockets in the manner required by statute. Failure of the presiding officer of the Court to make provision for the maintenance of such a docket shall constitute misconduct in office.

Section 16.10. Transfer of Cases:

In case of the absence, disability or disqualification of the presiding officer of the Court, any other Justice of the Peace or Municipal Judge in the County of Oakland shall be qualified to act in his place and for him in the performance of any of the duties imposed upon him by statute or this charter; and shall so act when called upon in the manner and under the conditions herein set forth. The Council shall by ordinance fix the compensation to be paid Justices or Judges for such services and the procedure to be followed in calling upon them so to act. Unless the Council shall so provide by ordinance, no such Justice or Judge shall so act or be entitled to compensation therefor.

Section 16.11. Court Clerk:

The Council may by ordinance provide for a court clerk and one or more deputy clerks to perform such duties as shall be therein prescribed. Such clerk and deputy clerks shall also, by virtue of their office, have the statutory powers to administer oaths to persons making affidavits for writs in civil causes and to issue all process and test the same in the name of the presiding officer of the Court and shall be required to collect all fees, costs, fines and other moneys paid into court and to keep a record book of the same and to pay over all such moneys to the authorities of the city or county or other persons entitled to the same as directed by this charter, by the proper authorities or by statute and the Council shall cause such book to be audited annually.

Section 16.12. Court Officer:

The City Administrator upon request of the presiding officer of the Court may assign a police officer of the city to the Court who shall have all the duties and powers of court officers of the Circuit Courts of the state and shall serve in such capacity at the pleasure of the City Administrator. Such officer shall receive no compensation except such as he may be entitled to as a police officer. All fees and mileage allowances received by such officer in the performance of the duties imposed upon him shall be paid into the city treasury in accordance with Section 5.14.

Section 16.13. Constables:

The City Administrator shall appoint one or more police officers of the city as constables. Such constables shall have like powers and authorities in matters of civil and criminal nature, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all process issued for breaches of ordinances of the city. The bond of the constables shall be that required of

constables in townships. The statutory fees received by such constables shall be paid into the city treasury in accordance with Section 5.14.

Section 16.14. Violations Bureau:

The Council shall have power and authority to establish by ordinance a Traffic Violations Bureau within the Court for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such Bureau. The creation of such a Bureau shall not operate so as to deprive any person of a full and impartial hearing in Court should such person so choose.

CHAPTER 17. MISCELLANEOUS

Section 17.1. City Liability:

The city shall not be liable for damages sustained by any person either to his person or property by reason of the negligence of the city, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk within sixty days after the injury resulting in such damages shall have occurred a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him.

The city shall not be liable for any damages to person or property arising out of any such injury unless there shall have been first presented to the Clerk a claim in writing and other oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the city for any such damages until such claim shall have been filed with the Clerk and until the Council shall have been given reasonable opportunity to act thereon either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city under this section that the notice of injury and the verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided.

Editor's note(s)—Charter § 17.1 is superseded by MCL 691.1401 et seq., MSA 3.996(101) et seq.

Section 17.2. Records to be Public:

All records of the city shall be public, shall be kept in city offices except when required for official reasons or for purposes of safekeeping to be elsewhere and shall be available for inspection at all reasonable times.

State law reference(s)—Mandatory that charter provide for public records, MCL 117.3(l), MSA 5.2073, (l).

Section 17.3. Interpretations:

Except as otherwise specifically provided or indicated by the context:

(1) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(2) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.

(3) The word "person" may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

(4) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.

(5) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting.

(6) The word "officer" shall include the Mayor and other members of the Council, the administrative officers, members of city boards and commissions created by or pursuant to this charter, and the Justice of the Peace.

(7) The word "statute" shall denote the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the word "statute" is to be applied.

(8) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied

(9) The words "law" or "general laws of the state" shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the charter containing the words "law" or "general laws of the state" is to be applied, and applicable common law.

(10) All references to section numbers shall refer to section numbers of this charter.

Section 17.4. Definition of Publication, Mailing of Notices:

The requirements contained in this charter for the publishing or publication of notices or ordinances shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city immediately preceding the time that it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

Section 17.5. Trusts:

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy press doctrine shall apply.

Section 17.6. Quorum:

Except as provided otherwise in this charter, a quorum of any board or commission created by or pursuant to this charter shall be a majority of the members of such board or commission in office at the time, but not less than two members.

Section 17.7. Sundays and Holidays:

Whenever the date fixed by this charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Section 17.8. Penalties for Misconduct in Office:

Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 5.2.

Section 17.9. Chapter and Section Headings:

The chapter, section and subsection headings used in this charter are for convenience only and shall not be considered as part of the charter.

Section 17.10. Amendments:

This charter may be amended at any time in the manner provided by statute. Should two or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

State law reference(s)—Charter amendment procedure, MCL 117.21 et seq., MSA 5.2100 et seq.

Section 17.11. No Estoppel:

No estoppel may be created against the city.

Section 17.12. Processes Against City:

All process against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the Mayor, Clerk or Attorney.

Section 17.13. Severability of Charter Provisions:

If any provision, section, article or clause of this charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the charter which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable, and to this end this charter is declared to be severable.

Section 17.14. Property Seizure and Forfeiture:

A criminal conviction is required before forfeiture of any property to the City; that all revenues from forfeited property in connection with any crime must be used solely for street repairs and may not be used for law or code enforcement purposes; that a property owner may seek the return of forfeited property and the City must return, replace, or pay compensation for such property under certain circumstances; and that the City must keep records of forfeited property and publish such records monthly.

(Amend. of 11-7-2017)

CHAPTER 18. SCHEDULE

Section 18.1. Status of Schedule Chapter:

The purpose of this schedule chapter is to inaugurate the government of the city under this charter and to accomplish the transition from township to city home rule government, and it shall constitute a part of this charter only to the extent and for the time required to accomplish this end.

Section 18.2. Election on Charter:

This charter shall be submitted to a vote of the electors of the City of Lathrup Village for adoption at a special election to be held on Monday, December 7th, 1953. All provisions for such election shall be made and such election shall be conducted in the manner provided by law. Proper and sufficient notice of registration and of such special election shall be given by the Charter Commission by publication and posting in the manner prescribed by law. If, at said election, a majority of the electors shall vote in favor of the adoption of this charter, then the Secretary of the Charter Commission shall administer the oath to the officers elected at the time of the election on the question of the adoption of this charter and shall perform all other acts required by law to carry this charter into effect and to consummate the organization of the city.

Section 18.3. Form of Ballot:

The form of the ballot for the submission of this charter, if paper ballots are used, shall be as follows:

Instructions: A cross (x) in the square □ before the word "Yes" is in favor of the proposed charter, and a cross (x) in the square □ before the word "No" is against this proposed charter.

Before leaving the booth, fold the ballot so that the initials of the inspector may be seen on the outside.

Shall the proposed charter for the City of Lathrup Village drafted by the Charter Commission elected on May 12, 1953, be adopted?

□ Yes

□ No

It is provided, however, that if voting machines are used, the question of the adoption of the charter shall appear on voting machines and upon absent voters' ballots in the following form, and shall be preceded by instructions for the use of said machines:

Shall the proposed charter for the City of Lathrup Village by the Charter Commission elected on May 12, 1953, be adopted?

□ Yes

□ No

Section 18.4. Qualifications of First Officers:

Officers elected at the first election under this charter shall meet the eligibility requirements of Section 5.1: Provided, however, that any registered elector who has been a resident of the territory known as Lathrup Village or as Lathrup Townsite for a period of one year shall be eligible for elective office. For a period of two years

following the adoption of this charter residence under this section shall be interpreted to mean residence in such geographical territory.

Section 18.5. Election of Officers:

At the election upon the adoption of this charter, the first elective officers of the city under this charter, viz: five Councilmen and a Justice of the Peace shall be elected. The nomination and election of such first elective officers shall be conducted, as nearly as may be, in the manner prescribed for the election of officers in this charter. Candidates therefor shall be nominated by the filing of petitions signed by not less than twenty-five nor more than fifty of the qualified electors of such city and filed with the Secretary of the Charter Commission at 19600 Forest Drive, Lathrup Village, not later than twelve o'clock noon Eastern Standard Time Saturday, November 7, 1953.

Section 18.6. Canvass of Votes:

The Charter Commission shall appoint three electors of the area constituting the city who shall canvass the vote on the adoption of the charter and the election of the first elective officers thereunder and determine the result of the vote at such election in each case at a meeting of such persons to be held at 8:00 P.M., in the Lathrup School, on the Thursday following the election on the adoption of this charter.

Section 18.7. First Election of City Officers:

The first election of officers provided for in this charter shall be held in the Lathrup School on Monday, December 7, 1953, in conjunction with the election on the adoption of this charter. At this election the voters shall be entitled to vote for not more than five candidates for Council and not more than one candidate for the Justice of the Peace.

The two candidates for Council who receive the two highest numbers of votes shall be declared elected for a term beginning on Monday, December 14, 1953, and ending on the Monday next following the date of the regular city election in 1956. The three candidates for Council who receive the third, fourth, and fifth highest numbers of votes shall be declared elected for a term beginning on Monday, December 14, 1953, and ending on the Monday next following the date of the regular city election in 1955. The candidate for Justice of the Peace who receives the highest number of votes shall be declared elected for a term beginning on Monday, December 14, 1953, and ending on the fourth day of July, 1955. After this election the provisions contained in this charter relative to elections and terms of elective officers shall govern.

Section 18.8. First Meeting of First City Officers:

The Council first elected under this charter shall assemble in Lathrup School at 8:00 P.M., Eastern Standard Time on Monday, December 14, 1953. The meeting shall be called to order by the Chairman of the Charter Commission, or, in his inability to serve, by the Vice-Chairman. At this meeting each elective officer of the city shall take and subscribe to his oath of office as administered by the Secretary of the Charter Commission, and shall thereupon be qualified for, and shall assume the duties of, the office to which he was elected. At the time the elective officers of the City of Lathrup Village qualify for and assume the offices to which they were elected, as hereinbefore provided, all control of the officers of the Township of Southfield over that part of the township included within the city shall cease and be superseded by that of the officers of the City of Lathrup Village.

The Council shall at this initial meeting elect, by the method of Section 3.4, one of its members to serve as Mayor and one to serve as Mayor Pro Tem., both for a term expiring at the first Council meeting following the regular city election in 1955. The Mayor shall, immediately following his election at this initial meeting, assume the duties of the Chairman of the Charter Commission as presiding officer of the Council.

Section 18.9. First Administrative Officers of the City:

At such meeting, or as soon thereafter as may be, the Council shall appoint a Clerk, a Treasurer, an Assessor and such other of the administrative officers of the city as the Council shall deem necessary for the functioning of the city government. Each such appointive officer shall hold his office subject to the provisions of this charter. Until a Clerk and a Treasurer are appointed and have assumed their respective offices, members of the Council may be appointed as acting Clerk and Treasurer, respectively. Until a City Administrator is appointed, the Mayor shall perform the duties of that office: Provided, That the Mayor shall not perform such duties after April 1, 1954.

Section 18.10. First Board of Review:

Before February 1, 1954, the Council shall appoint a Board of Review of three freeholders who meet the qualifications for such office as provided in this charter and shall fix their compensation. One such member shall be designated to serve for a term expiring in January, 1955, one for a term expiring in January, 1956, and one for a term expiring in January, 1957. Thereafter the provisions of Section 9.6 shall govern.

Section 18.11. Interim Legislation:

Within 30 days after the effective date hereof, the Clerk under direction of the Council, shall procure, and enter and maintain in a record called "Interim Legislation," a copy of each existing township bylaw, ordinance, resolution, rule and regulation disclosed by the public records of the township; and the Council shall, within 60 days after such entry, determine the provisions thereof which apply to said territory under authority of this section. The application of such provisions to this home rule city shall terminate not later than June 7, 1954. In the interim, as a substitute for such township provisions, the Council shall enact whatever it deems necessary as city legislation, with notices and hearings thereon as required by this Charter.

Section 18.12. Financing Interim Period Before Collection of First Taxes:

The first Council shall have the power to provide for the financing of the operation of the city government from the 15th day of December, 1953, to June 30th, 1954, and for defraying expenses incurred by the County of Oakland, the Charter Commission and other bodies pertaining to the drafting of a charter and the holding of an election thereon, as provided by law. For such purpose, the Council shall have power to borrow money and issue its notes in anticipation of the collection of taxes for the next succeeding fiscal year in accordance with the provisions of Chapter 4 of Act No. 202 of the Public Acts of 1943. For the purpose of so permitting the city to borrow for the operating of the city government the Council shall, in the year 1954, determine the operating tax levy for the fiscal year beginning July 1, 1954, on or before April 1, 1954. The Council shall also proceed expeditiously to make a settlement with the Township Board of Southfield Township of the division of properties and liabilities of the township in the manner provided by Section 14 of Act No. 279 of the Public Acts of 1909, as amended.

Section 18.13. De Facto Officer:

If this charter is rejected at the election on its adoption, and the election of officers is thereby void, the elector receiving the highest vote for Councilman shall be a de facto officer of the city, until a Mayor for the city is elected and qualified pursuant to a charter approved by the electors. Such de facto officer shall undertake those duties and responsibilities provided in Section 16 of Act No. 279 of the Public Acts of 1909. >

RESOLUTION OF ADOPTION

At a regular meeting of the Charter Commission of the City of Lathrup Village held on the 28th day of October, 1953, the following resolution was offered by Commissioner Nelson.

RESOLVED, that the Charter Commission of the City of Lathrup Village does hereby adopt the foregoing proposed charter for the City of Lathrup Village and the Secretary of this Commission is directed to transmit a copy of this charter to the Governor of the State of Michigan for his approval in accordance with statute and to cause this proposed charter to be published in the Birmingham Eccentric on November 19th, 1953.

The resolution was seconded by Commissioner Baker, and adopted by the following vote:

YES: Commissioners Anderson, Baker, Campbell, Farnham, Harvie, Nelson, Reed, Vogt, White.

NO: None.

ABSENT: None.

The Chairman declared the foregoing resolution carried unanimously and requested the members of the Charter commission to authenticate said resolution and also the copy of the charter to be presented to the Governor. The members thereupon authenticated said resolution and the copy of the charter to be presented to the Governor by subscribing their names as follows:

Richard H. Anderson	Georgia R. Nelson
Merle L. Baker	Thomas N. Reed
John G. Campbell	Ralph A. Vogt
Kenneth M. Farnham	William D. White
William H. Harvie	

All of the Commissioners having attested as to said resolution and also having attested the copy to be signed by the Governor, the meeting adjourned subject to the call of the Chairman.

STATE OF MICHIGAN,	)
	) SS.
COUNTY OF OAKLAND	)

Secretary of the Charter Commission of the City of Lathrup Village being duly sworn says that at an election duly called and held in the territory commonly known as Lathrup Village or as Lathrup Townsite on the twelfth day of May, 1953, the following named persons were duly elected as the Charter Commission to frame a charter for the city, namely: Richard H. Anderson, Merle L. Baker, John G. Campbell, Kenneth M. Farnham, William H. Harvie, Georgia R. Nelson, Thomas N. Reed, Ralph A. Vogt, William D. White, and that the annexed and foregoing charter was duly adopted by said Charter Commission by the foregoing resolution which is a true and correct copy thereof, and that the said Charter Commission directed that said charter be presented to the electors of the City of Lathrup Village in accordance with the requirements of this charter and the laws of the State of Michigan. Further deponent sayeth not.

Merle L. Baker
Secretary of the Charter Commission of the
City of Lathrup Village

Dated: October 28, 1953.

Subscribed and sworn to before me this 28th day of October, 1953.

Lorne B. Cross
Notary Public, Oakland County, Michigan
My commission expires September 1, 1956.

L. Bernard Cross
Counsel for the Charter Commission

I do hereby approve the above and foregoing charter of the City of Lathrup Village.

Approved: ;hg;G. Mennen Williams
Governor of the State of Michigan

Dated: November _____, 1953.

CITY OF LATHRUP VILLAGE
OAKLAND COUNTY, MICHIGAN

RESOLUTION ESTABLISHING CHARTER AMENDMENT BALLOT PROPOSAL LANGUAGE

At a Regular meeting of the City Council of the City of Lathrup Village, Oakland County, Michigan, (the "City"), held on the 21st day of June 2021.

PRESENT: Ferguson, Garrett, Kantor, Siddiqi

ABSENT: None

The following preamble and Resolution were offered by Kantor and seconded by Ferguson.

WHEREAS, the City of Lathrup Village City Council desires to Amend the City Charter by changing the budget presentation date from the third Monday in April to the third Monday of May; and

WHEREAS, the City of Lathrup Village City Council desires to Amend the City Charter by changing the budget adoption date from the third Monday in May to the third Monday of June; and

WHEREAS, MCL 117.21 states "The form in which a proposed charter amendment or question shall appear on the ballot, unless provided for in the initiatory petition, shall be determined by resolution of the legislative body, and if provided for by the initiatory petition, the legislative body may add an explanatory caption."; and

NOW, THEREFORE, BE IT RESOLVED as follows:

1. By a 3/5 vote of its members, pursuant to the authority granted by Public Act 279 of 1909, as amended, proposes that sections 8.2 and 8.5 of the Charter of the City of Lathrup Village shall be amended to read as follows:

Section 8.2. Budget Procedures:

The City Administrator shall prepare and submit to the Council on the third Monday in ***May*** of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

(a) Detailed estimates with his supporting explanations of all proposed expenditures for each department, office, and agency of the city, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current year;

(b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated revenues of the city from sources other than taxes with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to March first, and estimated revenues for the balance of the current fiscal year;

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting information as the Council may request.

Section 8.5. Adoption of Budget:

Not later than the third Monday in ***June*** in each year, the Council shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section 9.1.

Provisions of existing sections 8.5 and 8.5 of the Charter of the City of Lathrup Village to be amended by such proposal, if adopted, now read as follows:

Section 8.2. Budget Procedures:

The City Administrator shall prepare and submit to the Council on the third Monday in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

(a) Detailed estimates with his supporting explanations of all proposed expenditures for each department, office, and agency of the city, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current year;

(b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated revenues of the city from sources other than taxes with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to March first, and estimated revenues for the balance of the current fiscal year;

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting information as the Council may request.

Section 8.5. Adoption of Budget:
Not later than the third Monday in May in each year, the Council shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in Section.

2. That the City of Lathrup Village determines the charter amendment question shall appear on the ballot of the next regular election as follows:

BUDGET DEADLINE DATES CHARTER AMENDMENT
PROPOSAL 1

Shall the City of Lathrup Village Charter be amended to extend the budget presentation and adoption deadlines by one month, the new dates being the third Monday of May and the third Monday of June respectively.

[YES] [NO]

3. The city clerk shall transmit a copy of the proposed amendment to the Governor of the State of Michigan for approval, and transmit a copy of the foregoing statement of purpose of such proposed amendment to the Attorney General of the State of Michigan for approval, as required by law.

4. The proposed charter amendment shall be submitted to the qualified electors of this city at a regular election to be held in the City of Lathrup Village on November 2, 2021, and the city clerk is directed to give notice of the election and notice of registration in the manner prescribed by law.
5. The City Clerk is directed to give notice of the election and notice of registration in a manner prescribed by law and to do all things and to provide all supplies necessary to submit the Charter amendment to a vote of the electors as required by law.
6. The proposed amendment shall be published in full together with the existing charter provision altered or abrogated by the amendment as part of the notice of election.

YEAS: Ferguson, Garrett, Kaltz, Siddiqi

NAYS: None

ABSENT/ ABSTAIN None

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Lathrup Village, Oakland County, Michigan at a special meeting duly called and held on the 21st day of June 2021, the original of which resolution is on file in my office, and that notice of said meeting was given, the meeting was held and the minutes filed in

accordance with the Open Meetings Act, Act No. 267, Public Acts of Michigan, 1976, as amended.

Yvette Talley
City Clerk

OPEN MEETINGS AND FREEDOM OF INFORMATION ACTS

I. OPEN MEETINGS:

A. KEY DEFINITIONS

"Public Body" - Any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority or council, empowered to exercise governmental or proprietary authority or function.

"Meeting" - The convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy.

"Closed Session" - A meeting or part of a meeting of a public body which is closed to the public.

"Decision" - A determination, action or vote on a motion, proposal, recommendation, resolution or ordinance, on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

"Person" - An individual, corporation, partnership, organization or association. This does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

B. BASIC REQUIREMENTS FOR OPEN MEETINGS

- All meetings of a public body shall be open to the public and shall be held in a place available to the general public. A person may tape record, video tape, broadcast live, and telecast live the proceedings.
- A public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.
- All decisions of a public body shall be made at a meeting open to the public.
- All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public, except for closed sessions.
- A person shall be permitted to address a meeting of the public body under rules established by a public body; a person shall not be excluded from a public meeting except for breach of the peace at the meeting.
- The Act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid the Act.
- Notice of regular meetings shall be posted within ten days after the first meeting in each calendar or fiscal year (citizens can request that public bodies put them on a mailing list so that they are notified in advance of all meetings).
- Notice of special meetings shall be posted at least 18 hours before the meeting.
- Minutes must be taken.

C. MEETING PROCEDURE

- The City Charter contains requirements for meeting procedure, including notice of the meeting; transacting business at a special meeting; quorum; adjournment; rules and order of business; voting; attendance and conduct at meetings; and misconduct in office.
- Three members of the Council constitute a quorum.
- All meetings are conducted pursuant to established procedures, including Roberts Rules of Order.
- A vote upon the passage of an ordinance and upon the adoption of a resolution are taken by yes and no votes.
- Board members who are present at a meeting must vote on all questions decided by the board unless excused by the unanimous consent of the other members present. Such a vote would apply in the case of a board member's stated conflict of interest.

D. CONFLICT OF INTEREST

- There are two state laws comprising the principal ethics regulation of Michigan local government officials: the State Ethics Act, and PA 317, dealing with public contracts.
- Section 2 of the Ethics Act sets out the standards imposed on public officers and employees.
- Of particular note are the following subsections:
    - A public officer or employee shall not engage in or accept employment or render services for a private or public interest when such employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or may tend to impair his or her independent judgment. (MCL 15.342(6)).
    - A public officer or employee may participate in making a governmental decision (MCL 15.342(3)) if the following requirements are met:
        - a quorum is not otherwise available,
        - the official is not paid for working more than 25 hours per week, and
        - disclosure is made.
    - Further, an officer may participate in a governmental decision involving the award of a contract (MCL 15.342(4)) if the above requirements are met and, in addition,
        - the officer will benefit in an amount less than $250 or 5% of public cost of contract, and
        - the officer files a sworn affidavit which is made part of the public record.

II. CLOSED MEETINGS

A. TOPICS OF DISCUSSION.

The OMA allows for certain situations in which a public body may meet in closed or executive session. (MCL 15.268). When may closed sessions be held?

- To consider dismissal, suspension or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer or employee if requested by the named person.
- For strategy and negotiation sessions connected with negotiation of collective bargaining agreements if requested by either negotiating party.
- To consider purchase or lease of real property up to the time an option to purchase or lease of that property is obtained.
- To consult with an attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have detrimental financial effect on the municipality's litigation or settlement position.
- To review and consider contents of application for employment or appointment to public office if the candidate requests that the application remain confidential. Interviews by public body for employment or appointment to public office must be held in an open meeting. (Act does contain exceptions to this requirement for selection of college/university presidents under certain conditions.)
- To consider material exempt from discussion or disclosure by state or federal statute.

NOTE: Each of the purposes which allow a closed session begins with the words "to consider" or "to consult" or "to review." Any actions must be taken in open session.

B. CALLING A CLOSED MEETING.

From an open meeting, a two-thirds roll call vote is required, except for closed sessions permitted under MCL 15.268(a) (discipline, personnel evaluation, etc. of official/employee) or MCL 15.268(c) (collective bargaining) which requires a majority vote. A roll call vote and the purpose for calling a closed session shall be entered into the minutes of the open meeting.

C. ENDING A CLOSED SESSION.

Normally one of the members of the public body moves to return to open session. The body performs any action required as a result of the closed session in open session. The meeting then proceeds with other matters or adjourns in the normal fashion.

D. CLOSED MEETING MINUTES.

- The OMA requires that a separate set of minutes shall be taken at the closed session. According to an opinion of the Michigan attorney general, the minutes must reflect the date, time, place, members present and absent, and purpose of the closed session. (OAG No. 6817).
- The clerk or designated secretary of the public body may take the minutes.
- The minutes are not available to the public. They may only be disclosed if required by court order in a civil action filed in accordance with MCL 15.270, 15.271 or 15.273. OAG No. 6353 provides that disclosure may not be made even if the person requesting the closed session subsequently waives or withdraws the request and consents to disclosure.

- The public body approves the minutes and may meet in closed session to approve the minutes of a closed session if that decision is made in an open session of the public body.
- The minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.
- The minutes of a closed session are exempt from disclosure under the Michigan freedom of information act unless required by court order in accordance with the open meetings act.

III. PUBLIC HEARINGS

A. DEFINITION.

A public hearing is that portion of a meeting designed specifically to receive input from the public. A public hearing may be required by ordinance, charter or statute. The time, place and subject of the hearing must be posted as required by the ordinance, charter or statute. The hearing may be scheduled before, during or after a regular meeting of a council or committee, or may be the subject of a special meeting called specifically for that purpose.

B. PUBLIC HEARINGS AS SPECIAL MEETINGS.

A stand-alone public hearing is considered a special meeting and must be posted as such under the Open Meetings Act. The requirement for posting a special meeting is a public notice stating the date, time and place of the meeting posted at least 18 hours before the meeting. Special meetings called under the Open Meetings Act do not require the purpose of the special meeting to be included in the posting.

C. STATUTORY GOVERNANCE.

Most public hearings are simply means of gathering feedback from the public and have no statutory restrictions. However, there are three statutes which regulate special types of public hearings:

i. The Municipal Planning Act, which requires a public hearing to amend a zoning ordinance and to adopt a master plan.
ii. The Uniform Budgeting and Accounting Act, which requires a public hearing to adopt the budget.
iii. The Elections Consolidation Act, which requires a public hearing if a village chooses to administer its own elections.
iv. In addition, some grants may have public hearing requirements imposed by the granting agency or body.

D. REQUIREMENTS.

- A public hearing should be treated as a meeting, and should be called to order and adjourned when concluded.

- Minutes should be taken. The minimum requirements for minutes of meetings under the Open Meetings Act are a recording of the date, time and place of the meeting and any actions taken.
- Citizens should address the board through the chair.
- Public hearings offer citizens an opportunity to be heard, and should be viewed as a serious effort on the part of elected officials to secure as much information as possible about a topic before a final decision is made.
- Local charters may also include specific requirements for public hearings, such as requiring a public hearing for the consideration of a proposed ordinance.

IV. WORK SESSIONS

- Work sessions must be posted and fall under the definition of a meeting in the Open Meetings Act. Also, they must be open to the public except for those issues that by law are permitted to be addressed in closed session.
- Work sessions can be scheduled at any time.
- Work sessions allow public bodies to address major issues more effectively, or provide opportunities for members to focus on long-term decisions rather than the day-to-day management issues that confront the village. Presumably they also make regular sessions more productive and shorter. Work sessions can also help members relate better to one another because of the greater informality of such sessions.
- The best approach to work sessions is to reserve them for more extensive issues and projects. Goal-setting, budget review, education refreshers or major development proposals are examples. If every issue is on both the work and regular session agenda, it may become repetitive.
- Work sessions are intended to provide opportunities for council/board members to study difficult issues, gather and analyze information, and clarify problems. Although the public should be given an opportunity to address the council, rules governing public participation ought to be enforced, and those in attendance should be made aware of the purpose of the meeting—to study issues, not to take action.

V. EMERGENCY MEETINGS

Public bodies may hold emergency sessions without a written notice or time constraints if the public health, safety or welfare is imminently and severely threatened and if two-thirds of the body's members vote to hold the emergency meeting.

VI. FREEDOM OF INFORMATION ACT – PA 442 OF 1976 (MCL 15.231 et. seq.)

The policy of under FOIA is that all persons, except those incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees. The intent of the act is to favor disclosure, and the burden is on the public body to justify nondisclosure.

A. KEY DEFINITIONS

- ***FOIA Coordinator -*** An individual who is designated by a public body to accept and process requests for public records. He/she may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records.

- ***Person*** - An individual, corporation, limited liability company, partnership, organization, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility.

- ***Public Body*** - Includes a city, village and township council or commission or board and its departments, committees and divisions, as well as municipal corporations.

- ***Public Record*** - A writing prepared, owned, used, in the possession of, or retained by a public body or its divisions and employees in the performance of an official function, from the time it is created.

- ***Writing*** - Includes handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content, such as voice mail and other electronically recorded transmissions.

- ***Written Request*** - Writing that asks for information, including a writing transmitted by facsimile, electronic mail, or other electronic means.

B. FOIA REQUEST PROCEDURES

- A person must describe the public record sufficiently to find the requested record.

- A person has a right to inspect, copy, or receive copies of public records.

- A person has a right to subscribe to future issuances of public records which are created issued or disseminated on a regular basis. Subscriptions are valid for up to 6 months.

- The FOIA Coordinator must respond to FOIA requests within 5 business days after the date of receipt of the request, but may issue a notice extending the date for response by 10 additional business days.

- The FOIA Coordinator is not required to compile, summarize or report information, or create a new public record.

- If a public record contains material which is not exempt, as well as material which is exempt from disclosure, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

C. EXEMPTIONS

FOIA takes into consideration other laws that prohibit disclosure of information, such as Crime Victim's Rights Act, the Family Educational Rights and Privacy Act, Employee Right to Know Act, and HIPAA.

**FOIA exemptions do not constitute exemptions under the Open Meetings Act…just because certain writings are exempt from FOIA, does not mean the method of communication involving the subject matter is exempt from the OMA.

Items expressly listed as a FOIA exemption:

- Information of a personal nature, where public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

- Certain investigation and law enforcement agency records compiled for law enforcement purposes.

- Records or information specifically described and exempt from disclosure by statute.

- An official bid or proposal, directed to be made by the public body, to enter into a contract or agreement…only until the time for the public opening of bids or proposals has expired.

- Appraisals of real property to be acquired by the public body, up to the point in time that an agreement is entered into, or three years have elapsed (the exception will continue if related litigation has not yet terminated).

- Records of a public body's security measures, including codes, passwords, passes, keys and procedures, to the extent that the records relate to the ongoing security of the public body.

- Records or information relating to a civil action in which the requesting party and the public body are parties.

4. BE AWARE …

- ***Cell Phone Messages and Communications*** recorded on official and personal cell phones and other answering devices are subject to disclosure under the FOIA if such messages relate to governmental business.

- ***Personal Notes*** taken by hand or recorded electronically during meetings may be subject to disclosure under the FOIA. Handwritten notes of a public official taken for his/her personal use, which he/she does not circulate among other members, and which he/she does not use in the creation of the minutes of any meetings, and which he/she retains or destroys at his/her sole discretion, are not public records.

- ***E-Mail***, which includes the contents of the communication, the transactional information (dates and times that messages were sent, received, opened, deleted, etc.) and any attachments, is subject to FOIA.

  - ✓ Personal emails are not necessarily considered public records simply because they are captured by a public computer system as a matter of convenience by the user. Email messages are public records (on public owner or personal computer systems), if they are created or received by a public official/employee in the performance official duties, and/or stored or retained by public official/employee in the performance of an official function.

Social Networking - Although there are no Michigan cases specifically addressing FOIA and social networking, conclusions can be drawn from looking at trends in other FOIA related litigation, and rulings and opinions from other states. It is likely that a municipality's official page on a social networking sites, such as Facebook and Twitter, would be treated as a public record subject to FOIA, similar to email.

FACT SHEET

michigan municipal league

Freedom of Information Act—General Questions

What triggers a public body's requirement to respond to a Freedom of Information Act (FOIA) request?

A person has a right to inspect, copy, or receive copies of a public record, unless the record is exempt from disclosure. The person is required to make **a written request** to the public body's FOIA coordinator. The request must describe the public record sufficiently to enable it to be found.

The State Legislature added this provision to FOIA in 2014 (PA 563 of 2014): if **a verbal request** is made for information on the public body's website, the public employee shall, where practicable and to the best of the public employee's knowledge, inform the requestor about the public body's pertinent website address.

Who should respond to the FOIA request?

The Act requires a public body to designate a FOIA coordinator. A public employee who receives a request for a public record shall promptly forward that request to the FOIA coordinator.

How long should a public body keep FOIA requests?

The FOIA coordinator shall keep a copy of all written requests for public records for at least one year.

May a person inspect the records of a public body?

A public body must furnish a person a reasonable opportunity to inspect and examine its public records and shall furnish reasonable facilities for making memoranda from its records during usual business hours.

Does a public body have an obligation to protect its records?

A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

Is a public body required to make a summary or prepare a record if requested?

A public body is not required to make a compilation, summary, or report of information. Nor is it required to create a new public record.

May a person request future public records?

Yes. A person may subscribe for up to six months to future public records which are created on a regular basis.

Does a public body have to put information on its website?

PA 563 of 214 requires public bodies to establish specific written procedures and guidelines for FOIA requests, including a separate written summary informing the public on how to submit FOIA requests, how to understand the public body's responses to FOIA requests, deposit requirements, fee calculations, and avenues for challenging and appealing the public body's denial of a request.

For details on PA 563 of 2014, see Fact Sheet: Freedom of Information Act—2014 Changes.

STANDING RESOLUTION NO. 85-117a

RE: COUNCIL RULES OF ORDER AND PROCEDURE

The Lathrup Village City Council meeting is dedicated to the premise that government has a responsibility to the residents of the City and to the media to conduct a well organized and objective meeting and an obligation to keep them informed. Council meetings should be attractive, interesting and understandable to all in attendance with as much opportunity for audience participation as is feasible. Accordingly, the following Rules of Order and Procedure are adopted:

1. Regular Council Meetings

The Council shall set a regular schedule for its meeting dates (February through January of the following year) as a part of the agenda at its organizational meeting (first meeting in January). The place and time of the meeting shall be determined by the Mayor and shall be included in the agenda calling for the meeting.

2. Special Meetings

According to Section 6.2 of the Charter, special meetings shall be called by the Clerk on the written request of the Mayor, the City Administrator or any two members of the Council on at least 24 hours written notice to each member of the Council, served personally or left at his usual place of residence; but a special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

The City Clerk will also make a diligent effort to notify each member of the Council in person of each special session. At such a meeting only the matters set forth in the notice shall be acted upon.

3. Recessed Meetings

Any session of the Council may be continued to another day but no such continuation shall be for a longer period than until the next regular meeting thereafter.

4. Study Meetings

A study meeting may be convened on call by the Mayor or by two or more members of the Council. All members of the Council must be notified of the time and place of the meeting as set forth in Rule #2. Attendance at study meetings and notices calling such meetings shall be in harmony with the provisions of the Michigan Open Meetings Act.

The call for the meeting may also invite such persons as may be required for consultation and advice with respect to the matters under discussion. At a study meeting no formal votes may be taken on any matter under discussion nor shall any Council members enter into a commitment with another respecting a vote to be taken subsequently at a public meeting of the Council. All study meetings shall be called by the Mayor at regular Council meetings. A

brief confirmation of the time and date may be held at the meeting and all study meetings will be attempted to be held on the Monday nights between regular Council dates.

5. Council Meeting Agenda

The agenda for all council and study meetings shall be prepared by the Mayor with the assistance of the City Administrator. The City Clerk shall furnish a copy to each member of the Council, the City Administrator, the City Attorney, and all other citizens who are involved in the meeting such as the Chairperson of Advisory Committees or other functions, on the Thursday evening of the week preceding the meeting. All reports, communications, ordinances, resolutions, contract documents or other materials to be submitted to the Council shall be delivered to the members of the Council, the City Administrator and the City Attorney by the City Clerk as early as possible but no later than Thursday evening.

6. Official Reports

Wherever possible, reports by the City Administrator, City Attorney, Police Department, City Clerk, Advisory Boards and Committees will be made in writing to the Council, submitted prior to the meeting and listed on the agenda. Under such procedure, discussion at an open council meeting will be limited to general questions from the audience or the Council on the subject matter of these reports. Concluding action may be taken at this time. Items requiring action by request of the City Administrator or City Attorney will be listed as regular agenda items and, unless conditions make it impossible, will be submitted to members of the Council with the agenda for the meeting. Copies of other reports will be distributed to the Council for their information.

7. Correspondence

The City Administrator and the Mayor are delegated the responsibility of handling all correspondence. Under this system only that correspondence which necessarily requires Council decision on policy will be brought before the council meeting. Copies of other correspondnce may be distributed to the Council for their information.

8. Attendance at Conferences

The selection of the City's representative at conferences and meetings with outside organizations and officials, where official designation is required, is delegated to the Mayor, with concurrence of Council if substantial expense is involved.

9. Presiding Officer

The Mayor shall take the chair at the time appointed for the Council to meet and call the members to order. The Role will be noted by the Mayor and recorded by the Clerk for the minutes. The Mayor Pro-tem shall take the chair as presiding officer in the absence of the Mayor.

10. Temporary Chairperson

In case of absence of the Mayor and Mayor Pro-tem, the Clerk shall call the Council to order and call the roll. If a quorum is found to be present, the Clerk shall appoint a Chairperson to act until the Mayor or Mayor Pro-tem appears.

11. Council Privileges

The presiding officer may move, second, and debate from the chair, subject only to such limitations on debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Council member by reason of his/her acting as the presiding officer.

12. Decorum and Order

Meetings are to be formal with the enforcement of stringent rules for debate which will control the expenditure of valuable time. The presiding officer shall preserve decorum and decide all questions of order, subject to formal appeal to the Council as a whole.

Every person desiring to speak shall address the chair and shall wait to be recognized by the chair. He shall then confine himself/herself to the question under debate. Every Council member desiring to question the administrative staff shall address his questions to the City Administrator, who may either answer the inquiries or designate some member of staff for that purpose. A Council member, once recognized, shall not be interrupted while speaking unless a point of order is raised.

13. Quorum

The majority of the Council members elected shall constitute a quorum. In the case that a lesser number than a quorum shall convene at a regular or special meeting, the majority of the members present may send for any or all absent members by agreement. In the event a quorum cannot be obtained, the meeting must be adjourned. It is the duty of each Council member to notify the Mayor or Administrator if he/she cannot attend any Council meeting.

14. City Administrator

The City Administrator shall attend all meetings of the Council unless excused by the Mayor. He/she shall keep the Council fully advised as to the needs of the City and make recommendations to the Council; he may take part in discussions on all matters concerning the welfare of the City, and shall have a seat but no vote in the Council meetings.

15. City Clerk

The City Clerk shall be the Clerk for the City Council and shall attend all regular and special Council meetings unless excused by the Administrator, wherein the Administrator shall provide for the recording of minutes. The Clerk shall be responsible for keeping minutes of the meetings and shall perform such other duties in the meeting as may be in order. Within one week after the meeting, the Clerk shall furnish each Council member with a copy of the minutes of the preceding meeting.

16. City Attorney

The City Attorney shall attend all regular and special meetings of the Council unless excused by the Mayor. Any member of the Council may at any time call upon the City Attorney for an oral or written opinion concerning routine questions of law with respect to the City which do not require extensive research.

17. Right of Appeal

Any Council member may appeal to the full Council from a ruling of the Presiding Officer. If the appeal is seconded, the Presiding Officer shall immediately put the question of sustaining the decision of the chair to a vote.

18. Voting

Every Council member present when an ordinance or resolution is put to a vote shall vote, whether "yes" or "no", on a question during roll call. The only exception to this requirement for voting shall be in the case of a conflict of interest which shall preclude a Council member from voting.

19. Personal Privilege

The right of a Council member to address the Council on a question of personal privilege in cases where his integrity or motives are questions, shall be given preference over other discussion. Any member shall have the right to express dissent against any ordinance or resolution of the Council and have the reason therefore entered upon the official minutes, and whenever possible shall present to the City Clerk his expression in written form for the official records.

20. Code of Ethics

City Council members occupy positions of public trust. All business transactions of such officials dealing in any manner with public funds, either directly or indirectly, must be subject to the scrutiny of public opinion both as to the legality and to the propriety of such transactions. Council members shall not have a pecuniary interest either directly or indirectly in contracts of any character with the City, unless fully and publicly disclosed to the full Council and handled in accordance with proper legal procedures.

Council members shall conduct themselves so as to bring credit upon the City as a whole and so as to set an example of good ethical conduct for all citizens of the community. Council members shall bear in mind at all times their responsibility to the entire electorate, shall refrain from actions benefiting special interest groups at the expense of the City as a whole, and shall do everything in their power to ensure equal and impartial law enforcement throughout the City at large.

21. Order of Business

The business of all regular meetings of the Council shall be generally transacted in the following order at the discretion of the Mayor:

1. Call to Order
2. Invocation
3. Roll Call of Council
4. Discussion and Approval of Minutes
5. Disbursement Report
6. Petitions
7. Public Hearings
8. Passage of Ordinances
9. Introduction of Ordinances
10. Passage of Resolutions
11. City Administrator's Report
12. City Attorney's Report
13. Reports of Boards, Commissions and Committees
14. New Business
15. Old Business
16. Correspondence
17. Legislative Review
18. Adjournment

22. Parliamentary Procedure

The conduct of Council meetings shall be in accordance with the manual on parliamentary procedures entitled "Roberts Rules of Order".

23. Ordinance Introduction

Except when the public interest requires otherwise, the normal date for introduction of ordinances will be set at the Council meeting following the regular Thursday receipt of agenda at which the proposed ordinance is supplied to Council members in writing.

Introduction of all ordinances shall follow charter provisions, a summary of which has been prepared by the City Administrator.

24. Permission to Address Council

Persons other than members of the Council and City Officials shall be permitted to address the Council upon recognition by the presiding officer by introducing the subject upon which they desire to speak and stating their name and address. The presiding officer may limit participation by the general public to designated times during the meeting.

25. State or Federal Cooperation - Procedure

All proposals for projects which contemplate cooperation with, or financial participation by, the State or Federal government, shall be transmitted to

Council by the City Administrator. If a City Board or Commission desires to propose such a project, the proposal shall first be filed with the City Administrator. All proposals shall be in approved form and accompanied by proper plans and specifications conforming to the requirements of respective State or Federal governments. If Council approves the proposal, it shall by resolution authorize the City Administrator to make application to the proper authority.

26. Suspension of Rules

Any provisions of these rules not governed by the Charter or Code may be temporarily suspended at any meeting of the Council by the Presiding Officer unless objected to by any Council member. Such objection must then be sustained by majority vote of the Council.

The vote on any such suspension shall be taken by "yeas" and "nays" and entered upon the records.

27. To Amend Rules

These rules may be amended or new rules adopted by a majority vote of all members of the Council. Any such alterations of or amendments to, shall be submitted in writing at the preceding regular meeting and shall be placed on the calendar under the order of new business. This requirement shall be waived only by unanimous consent, with a recorded vote of all members.

28. Administrative Tribunal Hearings

Where the City Council sits as an administrative tribunal to review the actions of an administrative official on appeal, to grant Special Use Approvals under Articles 10 and 16 of the Revised Zoning Ordinance, and like instances under statutes and ordinances, the hearings shall be governed by Rules 31-40 as attached. Rules 1-27 are intended to apply only to those Council Meetings where the Council is acting in its other capacities.

Adopted 5/6/85
Replaces CO 79-7122, CO 80-62, CO 82-273a (11/22/82)

STANDING RESOLUTION 83-68b

RE: UNPAID OFFICIALS

WHEREAS, the City of Lathrup Village maintains its ability to deliver municipal services at minimum cost to its taxpayers by utilizing a large number of volunteer officials, advisors, and helpers; and

WHEREAS, it is desirable to adopt a formal resolution setting forth in writing such City policies and procedures as are peculiar to the relationships created by the City soliciting, receiving, and accepting the value of time and talent on a donated basis from persons who are activated by a commendable public spirit and pride in the community and whose primary motivation is the promotion of the general welfare without thought of compensation in money or money's worth.

BE IT THEREFORE RESOLVED, that persons who voluntarily donate of their time and serve the City in an elected or appointive official position or capacity without compensation shall be entitled to expect, as a matter of officially-recognized City policy, all of the following rights, privileges, and protections:

1. Such rights and privileges as are afforded agents of the City by Statutes, Ordinances, and the common law of this State.

2. Recourse to such liability insurance coverages as may be afforded under the terms of such insurance policies as the City may carry from time to time.

3. Periodic recognition and expressions of gratitude and appreciation from the City officially and, in the case of exceptional meritorius service, certificates, awards, and other nominal non-monetary rewards as the Council may deem appropriate and non-compensatory

4. Reimbursement for all reasonable out-of-pocket expenditures which are incurred as ordinary and necessary expenses of carrying out approved activities within the scope of City business or governmental responsibility under procedures established by the Council. Reimbursement for personal car useage on City activities shall be at 18 cents per mile

5. In the event a claim is threatened or made against such a person for a wrongful act alleged to have occurred in the course of such person performing official duties imposed or authorized by law for or on behalf of the City, the City shall provide such assistance and cooperation as it may be lawfully permitted to furnish in the course of the investigation and defense of such claim; and in the event a liability be imposed as a result of an occurrence involving a good faith discharge of his official duties, to imdemnify such person against loss therefrom to the fullest extent permitted by law.

Adopted 7/21/75
Reconfirmed 3/10/80 - CO-80-62
Rescinds 75-5952

CITY OF LATHRUP VILLAGE

ETHICS AND CODE OF CONDUCT

CITY COUNCIL, BOARDS, COMMISSIONS, COMMITTEES

17.01 Ethics and Code of Conduct

Each employee, official, or volunteer is required to conduct him/herself efficiently and in a professional manner at all times. No employee, official or volunteer of the City shall:

1. Use their public office or employment for private gain;
2. Give preferential treatment to any organization or person except as expressly permitted by law, ordinance, resolution or policy;
3. Impede government efficiency or economy for personal gain or profit;
4. Engage in private or other public employment or render services for private or other public interests when such employment or service is incompatible with the proper discharge of his/her duties of the City;
5. Expend public funds unlawfully or without proper authorization;
6. Verbally, physically or psychologically abuse any citizen, elected official, supplier, vendor, guest or co-worker;
7. Be insubordinate, or refuse to carry out work assignments or day-to-day instructions pertaining to the job which are properly issued by the employee's immediate Supervisor;
8. Be excessively absent or tardy;
9. Work or report for work under the influence of alcohol or unlawful drugs, and/or possess alcohol or unlawful drugs on the premises of the City;
10. Falsify or misuse City forms, records or reports, including time sheets and employment applications;
11. Steal, misappropriate, remove, abuse, destruct, or misuse property belonging to the City or another employee. The City reserves the right to inspect all City offices, desks, files, vehicles and packages;
12. Fail to return from an authorized leave of absence or vacation at the designated time;
13. Discriminate against or harass others;
14. Possess weapons, firearms or explosives on City property (except for law enforcement officers);
15. Disclose or misuse confidential information;
16. Fail to maintain proper grooming, dress cleanliness and hygiene.
17. Misrepresent time worked;
18. Gamble on City property;
19. Engage in fraud, embezzlement, misrepresentation or any other act of dishonesty;
20. Engage in any conduct which reflects adversely on the City

Ethics—Misconduct in Office by Public Officers

Common law criminal offense

Misconduct in office by a public officer is a common law offense subject to the provisions of MCLA 750.505, MSA 28.773:

Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than five years or by a fine of not more than $10,000.00, or both, in the discretion of the court.

Misconduct in office applies only to public officers

Misconduct in office applies only to public officers as distinguished from public employees. See *People v Coutu*, 450 Mich 348 (1999). In the *Coutu* decision, the Michigan Supreme Court held that deputy sheriffs are "public officers" for the purposes of the common law offense of misconduct in office. In order to be considered a public officer, five elements are required:

1. The position must have been created by the constitution or by the legislature or created by a municipality or other body through authority conferred by the legislature.

2. The position must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public.

3. The powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the legislature or through legislative authority.

4. The duties of the position must be performed independently and without control of a superior power other than the law, unless they be those of an inferior or subordinate office, created or authorized by the legislature, and by it placed under the general control of a superior officer or body.

5. The position must have some permanency and continuity, and not be only temporary or occasional.

Malfeasance, misfeasance, and nonfeasance

The offense of misconduct in office includes **malfeasance**, which is the doing of a wrongful act;

misfeasance, which is the doing of a lawful act in a wrongful manner; and

nonfeasance, which is the failure to perform an act required by the duties of the office.

It does not include acts done by officers in good faith or honest mistakes. The crime requires evidence of corrupt intent which does not necessarily mean, however, an intent to profit.

See also Fact Sheets covering Standards of Conduct for Public Officers and Employees, Incompatible Public Offices, and Contracts of Public Servants with Public Entities.

Ethics—Contracts of Public Servants with Public Entities

A public servant shall not be a party, directly or indirectly, to a contract with the public entity of which he or she is an officer or employee. MCL 15.322(1)

A *public servant* is defined as any person serving any public entity except a member of the Legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution. MCL 15.321(a).

Exceptions applicable to municipal officials:

- A public servant who is paid for working an average of 25 hours per week or less (MCL 15.323(1)(a)) if the following conditions are met:
  - o The public servant must disclose any pecuniary interest in a contract to the official body that has power to approve the contract. Unless he or she will directly benefit in an amount less than $250 and less than 5 percent of the public cost and the public servant files a sworn affidavit to that effect or the contract is for emergency services or repairs, the public servant must notify the presiding officer or clerk in writing seven days before the meeting at which a vote is to be taken. The disclosure must be made public in the same manner as a public meeting seven days before the meeting at which the vote is taken. If the direct benefit to the public servant is more than $5,000, the second method of disclosure must be followed. MCL 15.323(2)(a)
  - o The contract must be approved by not less than 2/3 of the full membership in open session without the vote of the public servant making the disclosure. MCL 15.323(2)(b)
  - o Summary information must be included in the official minutes. MCL 15.323(2)(c)
- Public servants of a municipality of less than 25,000 population may serve as emergency medical personnel. MCL 15.323a(a)
- A public servant of a municipality of less than 25,000 population may serve as a firefighter with the exception of a full-time firefighter, a fire chief, or a person who negotiates on behalf of firefighters. MCL 15.323a(b)
- A municipality with a population of less than 25,000 may authorize a public servant to perform other additional services for the unit of government. MCL 15.323a(c)
- A public servant may participate in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under the act to vote or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member's direct benefit from a contract is less than $250 and less than 5 percent of the public cost of the contract, whichever is less, and the member files a sworn affidavit which is made a part of the record. MCL 15.323(3)

**There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. *See also* Fact Sheets covering Incompatible Public Offices and Standards of Conduct for Public Officers and Employees.

Municipal Codes of Ethics

Ronald D. Richards
Laura J. Garlinghouse
Foster, Swift, Collins & Smith, P.C.
517-371-8154
rrichards@fosterswift.com
lgarlinghouse@fosterswift.com

Can You Hear Us?

If not, dial

1-866-200-5786

When prompted, enter the Conference ID

4847273

© 2010, Foster Swift Collins & Smith, PC.

Opening Thoughts

- "Ethics" means what one should do.
- "There is a big difference between what we have the right to do and what is right to do." - Justice Potter Stewart
- Conduct that is legally allowed is not always the same as what people think of as ethical conduct.

© 2010, Foster Swift Collins & Smith, PC.

Opening Thoughts

- What do we mean when we talk about ethics for municipal officials and employees?
  - Establishing behavioral standards that promote the public's confidence and trust that the municipality is acting in the public's interest – not serving private interests.

© 2010, Foster Swift Collins & Smith, PC.

Effectuating Municipal Ethics

- Statutes
- Local Ethics Ordinances
- Local Ethics Policies and Guidelines

© 2010, Foster Swift Collins & Smith, PC.

Numerous Laws Relate to Ethics at Local Level

- In-Depth Treatment Here:
  - Standards of Conduct for Public Officers and Employees (State Ethics Act), MCL 15.341 et seq.
  - Contracts of Public Servants With Public Entities Act, MCL 15.321 et seq.
  - Political Activities of Public Employees Act, MCL 15.401 et seq.

© 2010, Foster Swift Collins & Smith, PC.

Other Laws Regarding Public Officials' Permitted Actions

- OMA and FOIA
- Incompatible Offices Act, MCL 15.181 et seq.
- Michigan Campaign Finance Act, MCL 169.201-282
- Conflict of Interest Act, MCL 15.301 et seq. (state officers)

© 2010, Foster Swift Collins & Smith, PC.

Other Laws Regarding Public Officials' Permitted Actions

- Michigan Penal Code, MCL 750.1 et seq.
  - Failure to uphold or enforce the law. MCL 752.11 (bars omissions only).
  - Common law criminal offense (misconduct in office). MCL 750.505. Five-year felony.

© 2010, Foster Swift Collins & Smith, PC.

Other Laws Regarding Public Officials' Permitted Actions

- False statement of public finances. MCL 750.489. Misdemeanor.
- Improper keeping of public funds. MCL 750.490. Misdemeanor.
- Improper purchase of goods on public credit. MCL 750.490a. Misdemeanor.
- Willful neglect of duty. MCL 750.478. Misdemeanor.

© 2010, Foster Swift Collins & Smith, PC.

Other Laws Regarding Public Officials' Permitted Actions

- Whistleblower's Protection Act, MCL 15.362.
  - Employer may not discharge or discriminate against employee regarding compensation, terms, conditions, or privileges of employment because the employee reports a violation or suspected violation of the law.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- State Ethics Act, 1973 PA 196, MCL 15.341 et seq.
- Intended as code of ethics for public officers and employees and not as rule for public contracts.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Key Definitions:
  - "Employee" includes a municipal employee
  - "Public officer" includes an elected or appointed municipal official
  - Unethical conduct means actions that violate Sec. 2

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Sec. 2: defines unethical conduct
  - Sets standards imposed on public officers and employees
- Public officer or employee must
  - Not divulge to an unauthorized person confidential information acquired in course of employment.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Not represent his or her own personal opinion as the municipality's.
- Use personnel resources judiciously, solely per the law, and not for personal gain or benefit.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Sec 2 (cont'd) Public officer or employee must not:
  - Solicit or accept any gift or loan of money, goods, or services, or other thing of value for the benefit of a person or organization (other than the state) which tends to influence the manner in which the officer or employee performs official duties.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Sec 2 (cont'd) Public officer or employee must not:
  - Engage in a business transaction in which the officer or employee may profit from his official position or authority, or benefit financially from confidential information obtained due to that position.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

Sec 2. Public officer or employee must not:

- Engage or accept employment or render services for a private or public interest when that is incompatible or in conflict with the discharge of the officer or employee's official duties or if it would impair his independent judgment or performance of official duties.
- Participate in negotiations or executions of contracts, permits, or other regulation or supervision relating to a business entity in which he has a financial or personal interest.
- But there are two exceptions.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Exception – above rule does not apply, and so public officer can vote on, make, or participate in making a government decision if
  - A quorum is not otherwise available;
  - The officer is not paid for working more than 25 hrs/week; and
  - Officer makes disclosure on record.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Exception – if a government decision involves awarding a contract, above rule does not apply and officer can vote on, make, or participate in making the government decision if
  - All of the above four requirements are met.
  - Officer will benefit from contract less than $250 or less than 5% of the contract cost (whichever is less).
  - Officer files affidavit that is made part of the public record.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Sec. 2b: Whistleblower Provision
  - Public officer or employee with knowledge that another officer or employee has violated the Act **may** report it to a supervisor, person, agency, or organization.
  - The reporter is not subject to dismissal, salary withholding, promotion withholding, demotion, or transfer.
- Employer must post notices and use other "appropriate means" to keep employees informed of their protections under this Act.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Sec. 2c - Private Cause of Action
  - Person who alleges a violation of 2b may sue for injunction or damages.
  - Deadline: 90 days after the violation.
  - Remedies: court can grant this to the complainant -- reinstatement, paying back wages, reinstate benefits, actual damages, attorney fees, and witness fees.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Employer must post notices and use other “appropriate means” to keep employees informed of their protections under this Act.

© 2010, Foster Swift Collins & Smith, PC.

Standards of Conduct for Public Officers and Employees

- Act Creates Board of Ethics within Executive Office of the Governor
  - Board is advisory and investigatory only; can't take direct action against a person or agency.
  - Makes recommendations to appointing authority with supervisory responsibility over suspect.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- 1968 PA 317, MCL 15.321 *et seq*.
- Local Governmental equivalent to State Conflict of Interest Act.
- Applies to all public servants (anyone serving a public entity such as city and village)

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Section 2(1) – No Contract Rule
  - G/R # 1: can't be a direct or indirect party to any contract between himself and the public entity of which he or she is an officer or employee [MCL 15.322(1)].
- But there are exceptions (later).

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Section 2(2) –
- G/R # 2 No Solicitations
- public servant may not (directly or indirectly) solicit any contract between the public entity of which he is an officer or employee and any of the following:

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Him or herself
- Any partnership or association of which he is a partner, member, or employee
- Any private corporation of which he or she is a shareholder owning more than 1% of the total outstanding stock (if not listed on stock exchange) or with a market value of $25K or more (if the stock is listed)
- Any trust of which he is a beneficiary or trustee [MCL 15.322]

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- G/R # 3: As to any such contract in Sec. 2(2), the public servant may not
  - Be part of negotiations or approval of the contract or an amendment
  - Represent either party in the transaction [MCL 15.322]
- But there are exceptions (later)

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Sec. 3(1) – Exception # 1
- "Disclosure-Forgiveness" Exception
  - Says Section 2 doesn't apply to a contract where the public servant is paid for working 25 hrs/week or less on average if 3 requirements are met:
    - Disclose
    - Approve contract by 2/3 full membership
    - Summary info in minutes

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- 1st Requirement: Disclose
- Public servant must disclose financial interest in the contract to the official body approving the contract.
  - Required Disclosure Methods –
  - G/R: 7 day notice and cooling off period
    - Publicly disclose in writing to presiding officer or clerk the financial interest in the contract 7 days before meeting at which vote will be taken.
    - Disclosure must be made public in same manner as a public meeting notice
  - OR

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Disclose financial interest at the public meeting. Vote is to be held at a meeting 7 days after the meeting at which the disclosure is made. If amount of direct benefit is more than $5K, disclosure must be done this way.

- Do not need 7 day notice period and can give notice by affidavit if public servant making the disclosure will directly benefit from contract **less** than $250 and less than 5% of public cost of contract, or if contract is for emergency repairs or services.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- 2nd Requirement: Contract must be approved by at least 2/3 of the full membership of the approving body in open session without vote of public servant making the disclosure.
- 3rd Requirement: Summary information must be included in official minutes:
  - Name of each party to the contract.
  - Terms of contract, duration, $$, services of public entity involved, nature of public entity's employees required to fulfill the contract.
  - Nature of any pecuniary interest.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Exception # 2:
- Public servant may participate in making a governmental decision if public servant's participation is required by law.
  - If 2/3 of members are not eligible under this Act to vote on a contract or to create a quorum, member may be counted for purposes of a quorum and may vote on contract if:
    - member's benefit is less than $250 and less than 5% of public cost of the contract, and
    - member files sworn affidavit with the body.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Exception # 3: certain categories
  - Public servants of a municipality with a population of less than 25,000 may serve as emergency medical services personnel.
  - Public servants of a municipality with a population of less than 25,000 may serve as firefighter – but not full-time firefighter, fire chief, or negotiator for the firefighters.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Sec. 4: Prohibitions in Sec. 2 do not apply to 4 specific type of contracts:
  - Contracts between public entities.
  - Contracts awarded to lowest qualified bidder, other than a public servant, upon receipt of sealed bids per published notice (as long as not amendment or renegotiations of a contract or additional payments under a contract that were not initially authorized at the time of the contract award).

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Contracts for public utility services where rates are regulated.
- Contracts to buy residential property in a city or village that adopted an ethics ordinance in effect at the time the residential property was bought.
  - Public servant of city or village may buy 1 to 4 parcels not less than 18 months between each purchase.
  - Only applies if city or village adopted an ethics ordinance in effect at time of purchasing residential property.
  - Violation of residential property rule is a felony: 1 year jail or fine between $1,000 and 3 times value of property bought.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- Sec. 5 – Remedies
- Monetary
  - Contract is not absolutely void if there is a conflict.
  - Contracts involving banned conduct are voidable by court order in action by the public entity that is a party to the contract.
  - Suit is against any person, firm, or corporation that entered into the contract with actual knowledge of the prohibited conduct.
    - Actual knowledge for a corporation must be that of a person or body finally approving the contract for the corporation.

© 2010, Foster Swift Collins & Smith, PC.

Contracts of Public Servants With Public Entities Act

- If court voids the contract, it may require reasonable reimbursement of person, firm, or corporation for services or goods provided under the contract to the extent political subdivision or state benefitted.

- Criminal
  - Violation is a misdemeanor.

© 2010, Foster Swift Collins & Smith, PC.

Political Activities Act, MCL 15.401 et seq.

- Political Activities by Public Employees Act, 1976 PA 169 (MCL 15.401 et seq.)
- "Public employee" means a municipal employee who is not an elected official.
  - Municipal employee who is elected to office of that city must resign or be granted leave of absence from his employment during his elected term.

© 2010, Foster Swift Collins & Smith, PC.

Political Activities Act, MCL 15.401 et seq.

- Municipal employee may become candidate to city elective office without obtaining leave.
- If the person becomes a candidate for municipal office, the municipality may require the person to take a leave of absence without pay when he complies with the candidacy filing requirements – unless that would violate a collective bargaining agreement.

© 2010, Foster Swift Collins & Smith, PC.

Political Activities Act

- Municipal employee may
  - Become member of political party committee.
  - Be a delegate to a state convention or district or county convention of a political party.
  - Become a candidate for election to any state or other public office without first obtaining leave from his employment.
- Can't do acts allowed above during hours when that person is compensated for performing public employee duties.

© 2010, Foster Swift Collins & Smith, PC.

Political Activities Act

- Public employer, public employee, or elected or appointed official may not
  - coerce, attempt to coerce, or command another public employee to pay, lend, or contribute anything of value
  - to a party, committee, organization, agency, or person
  - for the benefit of a person seeking or holding elected office or to further or defeat a proposed law, ballot question, or other measure to be voted on

© 2010, Foster Swift Collins & Smith, PC.

Political Activities Act

- Employee of municipality whose rights are violated or who is subjected to any of the barred "coercive" actions may complain to the Department of Labor.
- Department of Labor holds a hearing.
- Department of Labor may award back pay and attorney fees, and reinstate the employee and all work-related benefits.
- Still have to comply with other political activities laws, including federal laws.

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Municipalities may establish and enforce ethics regulations regarding municipal officials and employees.
- Purpose of Adopting an Ethics Ordinance – clarify behavior deemed necessary to instill trust and faith in government.

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- What to adopt?
  - Aspirational versus Punitive
    - Aspirational ordinance or resolution or policy
      - Guides public officials and employees as to expected and prohibited conduct. But no actual penalties for violations.

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Punitive ordinance
  - Provides civil or criminal penalties for violations
  - Beware of collective bargaining agreements
  - Removal of elected officials -- must comply with law

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Common Ethics Ordinance Concepts
  - Who it applies to? Some or all?
  - List the prohibited conduct
  - Define conflict of interest
  - Required disclosures
  - Nepotism
  - Consequences of violations

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations – Institute for Local Government's Public Service Ethics Program

- Prohibited conduct:
- Institute sets 4 tenets of ethical conduct for public office to reduce ethical and legal dilemmas from arising:
  - Do not financially benefit from position
  - Do not receive special benefits by virtue of position
  - Do not be secretive in decision-making
  - Do not let favoritism or bias cloud decision-making

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Typical concepts listed as prohibited:
  - Do not divulge confidential information to unauthorized persons or for personal gain
  - Do not represent your position as the municipality's position
  - Do not use public resources or your position for personal gain
  - Do not engage in a business transaction in which you would profit from knowing confidential information

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Do not accept services when it is in conflict with the discharge of official duties or would impair independent judgment
- Do not participate in negotiating or executing contracts, permits, or approvals for a business entity in which you have a financial interest
- Do not solicit or accept a gift that could be seen as influencing a decision or vote
- Do not participate in matters in which you have a conflict of interest

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Define conflict of interest - examples
  - Incompatibility between one's private financial interest and one's public duties
  - Personal interest, or duty to a third party that competes with or is adverse to a municipal official's duty to the public interest
  - Using one's official position to make a profit

© 2010, Foster Swift Collins & Smith, PC.

Court and AG Opinions Regarding Conflicts of Interest

- *Wilson v Twp of Burr Oak* (1891) – error to permit two members of Township Board to participate in decision where they had financial interest in laying out of public highway
- Township board members who would benefit financially from property tax exemption to a cooperative of which they are members should not participate in approving a transfer of property tax exemption to the cooperative (OAG No. 5916, 1981)
- Township supervisor may not conduct a private business from his or her Township office. (OAG No. 5854, 1981)

© 2010, Foster Swift Collins & Smith, PC.

Court and AG Opinions Regarding Conflicts of Interest

- No conflict for Township board member who also sits on Township's ZBA to have property that is being developed in the Township. Member should abstain from voting on zoning changes for land he owns. (OAG No. 5774, 1980)
- City assessor who serves on a bank board of directors and assesses the bank's property does not have a conflict of interest. (OAG No. 5442, No. 1979)
- Township clerk who also serves as voluntary fireman should not vote on matters that affect his compensation as a fire fighter. (OAG No. 5390, 1978)

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Required Disclosures
  - No statutory requirement for municipal officials to disclose outside financial interests
  - Many local codes require disclosures
  - Statute proposed in 2009 would have required officials and immediate family members to disclose their personal finances (income, assets, liabilities), and any gifts from lobbyists

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Require Disclosures?
  - If so, by who?
  - How often?
  - What information must be disclosed?
    - Interest as a partner, member, or employee in a partnership or association
    - Interest as a director, officer, or employee of a corporation

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Interest as a beneficiary or trustee of a trust
- Owner of stock with market value of $25,000 or more in a company that is doing business with the municipality

- AG has a model affidavit of disclosure annual form

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- International City/County Management Association (ICMA) –
  - Develops and fosters local government
- Publishes a Code of Ethics
  - www.icma.org/en/icma/ethics/code_of_ethics

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Proposes high standard for disclosure appropriate for all public officials, elected or appointed, to adopt:
  - Disclose personal relationship if it could create the appearance of a conflict of interest
  - If reasonable person would question if you are acting in public interest, consider disclosing it
  - Do not let favoritism or bias cloud decision-making

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulations

- Procedure to disclose a potential conflict of interest
  - In writing?
  - At the meeting? Before the meeting?
  - How much detail to give?

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulation

- Nepotism
  - Hiring relatives or others with close ties to a public official
- Widely considered unethical as violating fairness principles
- Consider if nepotism ban is appropriate for a particular municipality
  - Smaller Municipalities – may be more tolerant to appointing spouse as deputy clerk or treasurer?
  - Larger Municipalities – may face criticism if appoint spouse to full-time position

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulation

- Consequences of Violations
  - Civil infraction?
  - Misdemeanor – fine of up to $500 and 90 days in jail
  - Disciplinary proceedings
    - Censure, reprimand, removal, dismissal, discharge
    - Collective bargaining agreement may impact this
    - Removal of elected officials – follow state law

© 2010, Foster Swift Collins & Smith, PC.

Municipal Ethics Regulation

- AG has Model Ethics Ordinance For Local Government Units

http://www.michigan.gov/documents/ag/ModelEthicsOrdDraft_287092_7.pdf

© 2010, Foster Swift Collins & Smith, PC.

Membership & Voting Issues

- City Council and ZBA
  - 1 ZBA member may be on the Council
  - But Can't be ZBA Chairperson

© 2010, Foster Swift Collins & Smith, PC.

Membership & Voting Issues

- PC and ZBA
  - 1 PC member may be a ZBA member
  - But not if the municipality's council acts as the ZBA

© 2010, Foster Swift Collins & Smith, PC.

Membership & Voting Issues

Beware: ZBA who is also on City Council or PC may not participate in a public hearing on or vote on same matter the member voted on as member of City Council or PC

- City Council and PC
  - 1 Board member may be on the PC

© 2010, Foster Swift Collins & Smith, PC.

Membership & Voting Issues

- ZEA: ZBA member must disqualify self from votes on which he or she has a conflict of interest
  - Failure to disqualify self if conflict of interest is malfeasance in office
  - ZBA member may be removed for misfeasance, malfeasance, or nonfeasance on written charges and public hearing

© 2010, Foster Swift Collins & Smith, PC.

Membership & Voting Issues

- PEA: PC member must disclose all **potential** conflicts of interest before the vote
  - PC member is disqualified if bylaws say so or if majority vote of remaining PC members say so
  - Failure to disclose potential conflict is malfeasance
  - Council may remove PC member for malfeasance
  - Unless Council defines conflict of interest by ordinance, PC must do so in its PC bylaws
  - If City Council doesn't define conflict by ordinance, PC must do so in its bylaws

© 2010, Foster Swift Collins & Smith, PC.

Presence at Meetings – Duress Issues

- *Dep't of Transportation v Kochville* (2004):
  - Township supervisor opposed MDOT variance request before Township ZBA, expressing concern for upholding new sign ordinance and on building setback issues. Court said no conflict as speaking on public interest. No financial interest in outcome of request.
- *Hughes v Almena Twp* (2009):
  - Township Trustee's presence and comment at PC and ZBA meeting opposing landowners' PUD request, due to buffer and soil issues, was not duress.

© 2010, Foster Swift Collins & Smith, PC.

Presence at Meetings – Duress Issues

- *Barkey v Nick* (1968):
  - City commissioner who appointed ZBA represented his brother before ZBA variance request. Court said improper duress. Due process violated and conflict of interest. ZBA's action was void.
- *Abrahamson v Wendell* (1977):
  - Township Supervisor appeared before ZBA to request a variance, acting as representative for landowner and contractor. Court said this was duress. Due process violated and conflict of interest. ZBA's action was void.

© 2010, Foster Swift Collins & Smith, PC.

Concluding Thoughts

- The purpose of clearly defined ethics is to build and maintain public trust.
- Ethical standards should be communicated to municipal officials.

"The good of the people is the chief law." - Cicero

© 2010, Foster Swift Collins & Smith, PC.

STANDARDS OF CONDUCT FOR PUBLIC OFFICERS AND EMPLOYEES
Act 196 of 1973

AN ACT to prescribe standards of conduct for public officers and employees; to create a state board of ethics and prescribe its powers and duties; and to prescribe remedies and penalties.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;Am. 1980, Act 481, Eff. Mar. 31, 1981.

The People of the State of Michigan enact:

15.341 Definitions.

Sec. 1. As used in this act:

(a) "Board" means the board of ethics.

(b) "Employee" means an employee, classified or unclassified, of the executive branch of this state. For the purpose of section 2b, employee shall include an employee of this state or a political subdivision of this state.

(c) "Public officer" means a person appointed by the governor or another executive department official. For the purpose of section 2b, public officer shall include an elected or appointed official of this state or a political subdivision of this state.

(d) "Unethical conduct" means a violation of the standards in section 2.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;Am. 1980, Act 481, Eff. Mar. 31, 1981.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342 Public officer or employee; prohibited conduct.

Sec. 2. (1) A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.

(2) A public officer or employee shall not represent his or her personal opinion as that of an agency.

(3) A public officer or employee shall use personnel resources, property, and funds under the officer or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

(4) A public officer or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.

(5) A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this state.

(6) Except as provided in section 2a, a public officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.

(7) Except as provided in section 2a, a public officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the public officer or employee has a financial or personal interest.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;Am. 1978, Act 352, Imd. Eff. July 12, 1978;Am. 1984, Act 53, Imd. Eff. Apr. 12, 1984.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342a MCL 15.301 to 15.310 and MCL 15.321 to 15.330 not amended or modified; purpose

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

of act; validity of contract in violation of act; voting on, making, or participating in governmental decisions; "governmental decision" defined.

Sec. 2a. (1) This act shall not in any manner amend or modify the terms of Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws and Act No. 318 of the Public Acts of 1968, being sections 15.301 to 15.310 of the Michigan Compiled Laws.

(2) This act is intended as a code of ethics for public officers and employees and not as a rule of law for public contracts. A contract in respect to which a public officer or employee acts in violation of this act, shall not be considered to be void or voidable unless the contract is a violation of another statute which specifically provides for the remedy.

(3) Subject to subsection (4), section 2(6) and (7) shall not apply and a public officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

(a) The requisite quorum necessary for official action on the governmental decision by the public entity to which the public officer has been elected or appointed is not available because the participation of the public officer in the official action would otherwise violate section 2(6) or (7).

(b) The public officer is not paid for working more than 25 hours per week for this state or a political subdivision of this state.

(c) The public officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision and the disclosure is made part of the public record of the official action on the governmental decision.

(4) If a governmental decision involves the awarding of a contract, section 2(6) and (7) shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:

(a) All of the conditions of subsection (3) are fulfilled.

(b) The public officer will directly benefit from the contract in an amount less than $250.00 or less than 5% of the public cost of the contract, whichever is less.

(c) The public officer files a sworn affidavit containing the information described in subdivision (b) with the legislative or governing body making the governmental decision.

(d) The affidavit required by subdivision (c) is made a part of the public record of the official action on the governmental decision.

(5) As used in this section, "governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by the members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974;—Am. 1984, Act 53, Imd. Eff. Apr. 12, 1984.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342b Report of violation; applicability of sanctions; civil fine.

Sec. 2b. (1) A public officer or employee who has knowledge that another public officer or employee has violated section 2 may report the existence of the violation to a supervisor, person, agency, or organization. A public officer or employee who reports or is about to report a violation of section 2 shall not be subject to any of the following sanctions because they reported or were about to report a violation of section 2.

(a) Dismissal from employment or office.

(b) Withholding of salary increases that are ordinarily forthcoming to the employee.

(c) Withholding of promotions that are ordinarily forthcoming to the employee.

(d) Demotion in employment status.

(e) Transfer of employment location.

(2) Whenever a public officer or employee who has reported or who intends to report a violation of section 2 may be subject to any of the sanctions under this section for reasons other than the public officer's or employee's actions in reporting or intending to report a violation of section 2, the appointing or supervisory authority before the imposition of a sanction shall establish by a preponderance of evidence that the sanction to be imposed is not imposed because the public officer or employee reported or intended to report a violation of section 2.

(3) A person who violates this section is liable for a civil fine of not more than $500.00.

(4) A civil fine recovered under this section shall be submitted to the state treasurer for deposit in the general fund of this state.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

History: Add. 1978, Act 352, Imd. Eff. July 12, 1978;Am. 1980, Act 481, Eff. Mar. 31, 1981.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.342c Civil action; commencement of action; "damages" defined.

Sec. 2c. (1) A person who alleges a violation of section 2b may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of section 2b, including reasonable attorney fees.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.342d Court order; costs.

Sec. 2d. A court, in rendering a judgment in an action brought pursuant to section 2b, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.342e Posting notices of protections and obligations.

Sec. 2e. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

History: Add. 1980, Act 481, Eff. Mar. 31, 1981.

15.343 Board of ethics; creation; function.

Sec. 3. (1) There is hereby created within the executive office of the governor a board of ethics.

(2) The function of the board shall be advisory and investigatory and the board is not empowered to take direct action against any person or agency.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.344 Board of ethics; appointment, qualifications, and terms of members; vacancies; ex officio members; quorum; action by board; compensation; executive secretary; clerical or administrative assistance.

Sec. 4. (1) The board of ethics shall consist of 7 members appointed by the governor, with the advice and consent of the senate, 1 of whom shall be designated as chairman and all of whom shall be residents of the state and not associated with public employment. Not more than 4 members of the board shall be members of the same political party. Initial appointments shall be made for terms commencing 30 days after the effective date of this act. Of those first appointed 2 shall serve for 1 year, 2 shall serve for 2 years, and 3 shall serve for 3 years. For the 1 year, 2 year and 3 year terms, at least 1 member for each such term shall be of the same political party. In the event of a vacancy, the governor shall fill the vacancy for the remainder of the term. Subsequent to the initial appointments, members shall be appointed for terms of 4 years.

(2) The attorney general and the state personnel director shall serve ex officio without the right to vote.

(3) Four members of the board shall constitute a quorum and the affirmative vote of 4 members shall be necessary for any action. Members of the board shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. With the consent of the civil service commission, the state personnel director shall designate an employee of the department of civil service, acceptable to the board, to act as executive secretary of the board and shall provide clerical or administrative assistance from the department of civil service as the board may, from time to time, request.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.345 Board of ethics; powers and duties.

Sec. 5. (1) The board shall:

(a) Receive complaints concerning alleged unethical conduct by a public officer or employee from any person or entity, inquire into the circumstances surrounding the alleged unethical conduct, and make recommendations concerning individual cases to the appointing authority with supervisory responsibility for the person whose activities have been investigated. All departments of state government shall cooperate with the board of ethics in the conduct of its investigations.

(b) Initiate investigations of practices that could affect ethical conduct of a public officer or employee.

(c) Hold public hearings.

(d) Administer oaths and receive sworn testimony.

(e) Issue and publish advisory opinions upon request from a public officer or employee or their appointing or supervisory authority relating to matters affecting ethical conduct of a public officer or employee.

(2) In the issuance of investigative reports and recommendations and advisory opinions, the board shall be advised as to legal matters by the attorney general.

(3) When a recommendation to an appointing authority is made by the board which affects a classified employee, the appointing authority shall initiate appropriate proceedings in accordance with such recommendation and pursuant to the rules of the civil service commission.

(4) When a recommendation to an appointing authority is made by the board concerning an unclassified employee or appointee, the appointing authority shall take appropriate disciplinary action which may include dismissal.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

15.346 Rules.

Sec. 6. The board may promulgate rules governing its own procedures pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. For a period of 1 year following the effective date of this act the board shall have full authority to exercise all of its functions in accordance with temporary rules of procedure promulgated by the board. Both the temporary and permanent rules of the board shall provide that:

(a) The board may request the attendance of any witness whose testimony, in the judgment of the board, will aid in the conduct of its investigations.

(b) A person appearing before the board shall submit either sworn or unsworn testimony as the board may decide and may at all times be represented and accompanied by counsel.

(c) A record of testimony taken before the board or a hearing officer designated by it shall be made in the manner prescribed by the board.

(d) The board may, when it appears necessary for the protection of individual rights, hold its meetings and hearings in private. All other meetings and hearings shall be open to the public.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

Administrative rules: R 15.1 et seq. of the Michigan Administrative Code.

15.347 Appropriation.

Sec. 7. There is appropriated from the general fund of the state an amount necessary to implement this act but not to exceed $10,000.00 for the fiscal year ending June 30, 1974.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

15.348 Other acts not superseded; interpretation and administration of act.

Sec. 8. The provisions of this act shall not supersede the provisions of any other acts heretofore or hereinafter enacted and shall be interpreted and administered to the extent not inconsistent with other acts.

History: 1973, Act 196, Imd. Eff. Jan. 8, 1974.

Compiler's note: Section 191 of Act 227 of the Public Acts of 1975 repealed MCL 4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Ethics—Standards of Conduct for Public Officers/Employees

Introduction

1973 PA 196 is commonly known as the State Ethics Act. Section 2 of the Act sets out the standards imposed on public officers and employees. Of particular note are the following subsections:

> A public officer or employee shall not engage in or accept employment or render services for a private or public interest when such employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or may tend to impair his or her independent judgment. MCL 15.342(6)

A public officer or employee may participate in making a governmental decision (MCL 15.342(3)) if the following requirements are met:

- a quorum is not otherwise available;
- the official is not paid for working more than 25 hours per week; and
- disclosure is made.

Further, an officer may participate in a governmental decision involving the award of a contract (MCL 15.342(4)) if the above requirements are met and, in addition,

- the officer will benefit in an amount less than $250 or five percent of public cost of contract, and
- the officer files a sworn affidavit which is made part of the public record.

Definition of Public Officer

The definition of public officer, under the Act, is a person appointed by the governor or another executive department official. By virtue of a 1980 amendment, the definition was expanded, for purposes of MCL 15.342b which provides protection for a public officer or employee reporting a violation, to include an elected or appointed official of the state or a political subdivision of the state.

According to Michigan's attorney general, the amendment has imposed the ethical standards of section 2 of the Act (including subsections (6) and (7) set out above) on employees and officers of local units of government by providing protection to local officers and employees against job-related retaliation for "blowing the whistle" on local conduct in violation of the standards set forth in the act. See 1981 OAG 6005.

**There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. *See also* Ethics Fact Sheets covering Incompatible Public Offices, Misconduct in Office, and Contracts of Public Servants with Public Entities.

CITY OF LATHRUP VILLAGE
SOCIAL MEDIA POLICY

1. Purpose

- To address the fast-changing landscape of the Internet and the ways in which residents communicate and obtain information online, the City of Lathrup Village (the "City") encourages the use of social media to reach a broader audience in order to further the mission and goals of the City and the objectives of its departments, where appropriate.
- The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on the City's social media sites.
- The intended purpose behind establishing City social media sites is to disseminate information from the City, about the City, to its citizens. Information about the history of our City, services provided, and current/future projects are featured on these sites.
- This policy establishes guidelines for the establishment and use by the City of social media sites (including but not limited to Facebook) as a means of conveying City information to its citizens, increasing transparency, engaging citizens, and/or encouraging citizen participation in the affairs of local government.

2. Responsibilities

- The establishment and use by any City department of City social media sites is subject to approval by the City Administrator or his/her designee(s).

- The City Administrator or her/his designee will monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interest and goals of the City.

Policy:

- The City's website at www.lathrupvillage.org will remain the City's primary and predominant Internet presence.
- The best, most appropriate City uses of social media tools fall generally into two categories:
    - As channels for disseminating time-sensitive information as quickly as possible (example: emergency information).
    - As marketing / promotional channels which increase the City's ability to broadcast its messages to the widest possible audience.
- Wherever possible, content posted to City social media sites should contain links directing users back to the City's official website for in-depth information, forms, documents or online services necessary to conduct business with the City.
- City social media sites are subject to the Michigan Freedom of Information Act (FOIA). Any content maintained in a social media format that is related to City business, including a list of subscribers, posted communication, and communication submitted for posting, may

be a public record subject to public disclosure, and therefore, subject to the City's Record Retention Policy.

- The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Any content removed based on these guidelines must be retained in accordance with the FOIA. Social media content may be archived through the periodic, permissive removal of social media posts, provided that such posts are first copied and pasted to a digital file that is retained in accordance with a FOIA-compliant record retention schedule.
- All City social media sites shall adhere to applicable federal, state and local laws, regulations and policies.
- Comments on topics or issues not within the jurisdictional purview of the City of Lathrup Village may be removed.
- Employees, contractors, consultants and vendors representing the City government via City social media sites must, while acting in such capacity, conduct themselves as a representative of the City and in accordance with all City policies.
- This Social Media Policy may be revised at any time.

Comment Policy – These guidelines should be displayed to users or made available by hyperlink.

- As a public entity, the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
- The intended and primary purpose behind establishing City's social media sites is to disseminate information from the City, about the City, to its citizens, businesses, and other customers.
- Comments shall relate to the topic being discussed in the original post, and should be intended to further a civil discussion.
- Anonymous postings, or multiple postings by the same user or individual using a fictitious or different name are not permitted.
- Comments containing any of the following inappropriate forms of content shall not be permitted on City social media sites and are subject to removal and/or restriction by the City Administrator or designee:
    - Profane, obscene, violent, or pornographic content and/or language.
    - Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, or national origin.
    - Defamatory or personal attacks.
    - Threats to any person or organization.
    - Comments in support of, or in opposition to, any political campaigns, referendums or other ballot measures.
    - Solicitation of commerce including, but not limited to, advertising of any business or product for sale.
    - Conduct in violation of any federal, state or local law.
    - Encouragement of illegal activity.
    - Information that may tend to compromise the safety or security of the public or public systems.
    - Content that violates a legal ownership interest, such as a copyright, of any party.
    - Topics and information which are exempt from disclosure as provided for under the Michigan Open Meetings Act and FOIA.

- A comment posted by a member of the public on any City social media site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the City of Lathrup Village, nor do such comments necessarily reflect the opinions or policies of the City of Lathrup Village.
- The City reserves the right to deny access to City social media sites for any individual, who violates the City's Social Media Policy, at any time and without prior notice.
- All comments posted to the City's Facebook site are bound by Facebook's Statement of Rights and Responsibilities, located at http://www.facebook.com/terms.php, and the City reserves the right to report any violation of Facebook's Statement of Rights and Responsibilities to Facebook with the intent of Facebook taking appropriate and reasonable responsive action.

Dr. Sheryl L. Mitchell Theriot
City Administrator
City of Lathrup Village
27400 Southfield Road | Lathrup Village, MI 48076
smitchell@lathrupvillage.org
Office: 248.557.2600 x 225 | Cell: 248.520.0620

COUNCIL COMMUNICATION:

TO: Mayor Garrett and City Council Members
FR: Sheryl Mitchell Theriot, City Administrator
DA: May 25, 2021

RE: Fiscal Year 2021/22 Budget – Budget Hearing

The Budget Hearing was rescheduled from May 17, 2021. The only changes is the chart that breaks down the Sewer Rates was updated to reflect the 3% increase from the Evergreen Farmington system (page 19). The recommended budget anticipates the continuation of the extenuating circumstances created under the COVID-19 pandemic has impacted government and business operations. Although revenues were decreased in this current year, additional grant sources helped to offset the projected deficit for the current Fiscal Year 2020/21.

We have taken a very conservative approach in providing projections. The proposed revenues have not yet rebounded. We anticipate receiving over $400,000 in American Rescue Program funding, however, since the specific use of these funds and when it will be received is still uncertain, these funds are not reflected in the current FY 2021/21 or proposed 2021/22 budgets.

FISCAL YEAR 2021-2022 PROPOSED

The complete proposed SUMMARY OF REVENUES and EXPENDITURES are summarized as follows:

FUND	FY 2021/2022 REVENUES	FY 2021/2022 EXPENDITURES	FUND BALANCE IMPACT	ENDING FUND BALANCE
General Operating Fund	$4,337,350	$4,564,124	($ 225,775)	$ 1,515,031
Major Streets	$1,415,801	$1,328,926	$ 86,875	$ 707,662
Local Streets	$1,241,404	$1,548,286	($306,882)	$ 10,830
Water	$3,382,130	$2,935,887	$ 446,243	$ 6,757,768
Sewer	$2,420,088	$2,447,634	$ 12,454	
Debt Service		$ 471,847		
Capital Acquisitions	$ 110,850	$ 110,450	$ 71,602	
TOTAL ALL OPERATING FUNDS	**$12,947,622**	**$13,407,155**		
DDA	$ 347,443	$ 304,754	$ 70,473	$1,410,523
TOTAL ALL FUNDS	**$13,295,065**	**$13,711,909**		

MILLAGE RATE

- The FY 21/22 millage rate is projected at **24.4906.**
  - This generates $2.73 million in general operating revenues (approx. $20,000 increase)
- **General Operating Millage is reduced to 17.8783** (from FY 20/21: $18.1912)
- Rate includes the citizen authorized **Street Bond Millage of 3.9307**
- The Taxable Value is based on $152,930,000

MILLAGE RATE BREAKDOWN AND RESULTING REVENUES - 21-22

MILLAGE TYPE	AUTHORIZED MAXIMUM	19-20 HEADLEE MAXIMUM	20-21 HEADLEE MAXIMUM	F.Y. 20-21	F.Y. 21-22	REVENUE PRODUCED	REVENUE NEEDED	DIFFERENCE
General Operating	20.0000	18.5172	18.1912	18.1912	17.8783	2,734,128	2,960,904	(226,776)
Refuse	3.0000	2.7775	2.7286	2.7286	2.6816	410,097	385,940	24,157
Debt Streets	3.9307	N/A	3.9307	0.0000	3.9307	601,122	83,293	517,829
TOTALS	**26.9307**	21.2947	24.8505	**20.9198**	**24.4906**	**3,745,347**	**3,430,136**	**315,210**
					Taxable Value Calculation:		**152,930**	

Maximum Millage Rate					
FY	General Operating	Refuse	MRF	Taxable Value	Cost to City
2014	20.0000	3.0000	1.0000	$ 117,882.63	N/A
2015	20.0000	3.0000	1.0000	$ 120,560.08	N/A
2016	19.8320	2.9748	0.9916	$ 122,069.08	$ 23,583.75
2017	19.7269	2.9590	0.9947	$ 125,854.28	$ 39,527.81
2018	18.5172	2.7775	0.9801	$ 133,716.30	$ 228,026.41
2019	18.5172	2.7131	0.9768	$ 145,439.54	$ 257,389.88
2020	18.5172	2.6501	0.9768	$ 149,200.00	$ 273,436.01
2021	18.1912	2.6035	0.9824	$ 152,930.00	$ 337,260.07

General Operation	
20-21 Max. Millage Rate	18.1912
21-22 Max. Millage Rate	17.8783

Refuse	
20-21 Max. Millage Rate	2.7286
21-22 Max. Millage Rate	2.6816

Fiscal Year	General Op Millage Rate	Debt Service	Refuse	Total
2010-11	18.0000	0.0000	2.1755	20.1755
2011-12	18.0000	0	2.3185	20.3185
2012-13	18.0000	0	2.4731	20.4731
2013-14	20.0000	0	2.5644	22.5644
2014-15	20.0000	0	2.56	22.5600
2015-16	19.8316	0	2.5644	22.3960
2016-17	19.7269	0	2.9777	22.7046
2017-18	19.3342	0	2.9001	22.2343
2018-19	19.3342	0	2.9001	22.2343
2019-20	18.5172	0	2.7775	21.2947
2020-21	18.1912	0.0000	2.7286	20.9198
2021-22	17.8783	3.9307	2.6816	24.4906

GENERAL FUND REVENUES

- Constitutional Revenue Sharing payments reflect a decrease of approximately 2%.
- The FY 2021/22 budget reflects an overall decrease in revenue of $287,306.
    - Not carried forward from the current year are grants for Public Safety Payroll Reimbursement, First Responder Hazard Pay and other Coronavirus Relief Funds.
- FY 2021/22 General Fund Expenditures are reduced $233,931.
- This still reflects a General Fund shortfall of $226,775, that would need to come from other resources or the fund balance.

CITY OF LATHRUP VILLAGE
SUMMARY OF REVENUES BY FUND AND SOURCE
FY 2021-22

FUND/ACTIVITY	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
GENERAL FUND						
BEGINNING FUND BALANCE	1,633,644	1,633,373	1,633,373	1,633,373	1,741,806	108,433
TAXES:						
General Operating	2,495,395	2,714,127	2,714,127	2,610,478	2,734,128	20,001
Public Safety	-			-		-
Refuse Collection	356,292	407,107	407,107	394,224	410,097	2,990
Library	-	-	-	-	-	-
Streets	-	-	-	-	-	-
Administrative Fee	82,569	81,000	82,540	82,529	81,000	-
Tax Penalties	35,273	35,000	35,000	12,736	35,000	-
Total - Taxes	2,969,529	3,237,234	3,238,774	3,099,967	3,260,226	22,992
STATE SHARED REVENUE	385,762	416,425	416,425	164,040	409,118	(7,307)
FEDERAL AND STATE GRANTS	2,029	292,270	300,000	292,270	-	(292,270)
OTHER REVENUE	622,672	678,727	546,237	425,997	668,006	(10,721)
TRANSFER - OTHER FUNDS	-					-
Total Resources Available	**5,613,636**	**6,258,029**	**6,134,809**	**5,615,647**	**6,079,156**	(178,873)
REVENUES NEEDED	3,979,992	4,624,656	4,501,436	3,982,274	4,337,350	(287,306)
EXPENDITURES	3,980,264	4,788,056	4,393,003	3,500,707	4,564,125	(223,931)
OPERATING TRANSFERS OUT						-
FUND BALANCE NEEDED	(273)	(163,400)	108,433	481,566	(226,775)	(63,375)
ENDING FUND BALANCE	1,633,644	1,469,973	1,741,806		1,515,031	
MAJOR STREETS	331,152	389,595	1,183,020	151,110	1,415,801	1,026,206
LOCAL STREETS	382,911	293,068	1,158,634	239,266	1,241,404	948,336
WATER	726,622	1,130,678	1,127,978	633,434	3,382,130	2,251,452
SEWER	1,308,780	1,952,101	1,928,401	1,156,562	2,460,088	507,987
CAPITAL ACQUISITIONS	113,694	97,021	96,971	96,888	110,850	13,829
Total - All Operating Funds	**6,843,151**	**8,487,119**	**9,996,440**	**6,259,534**	**12,947,622**	**4,460,503**

All Revenues By Fund Type- FY 2021-22

Type	Revenue	Percentage
General Fund	$ 4,337,350	33.50%
Major Road Fund	$ 1,415,801	10.93%
Local Road Fund	$ 1,241,404	9.59%
Water Fund	$ 3,382,130	26.12%
Sewer Fund	$ 2,460,088	19.00%
Capital Acquisitions	$ 110,850	0.86%
Total	**12,947,622**	**100.00%**

GENERAL FUND – OTHER REVENUES

- **Other Revenues** is reduced by $10,721
- **Licenses & Registrations** is increased to reflect enhanced efforts with Business Licenses
- **Community Room Rental** Revenues reduced further to $15,000.
- The reduction in **donations** reflects the amount that the Lathrup Village Community Foundation has approved. Also, $7,800 that is for the summer concert performers will be paid directly by the LVCF.

GENERAL FUND OTHER REVENUES	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Miscellaneous	12,558	9,000	6,500	4,300	9,000	0
Delq Personal Property Revenue	6,274	4,000	1,000	924	3,000	(1,000)
Investment Interest	22,915	15,000	15,000	10,722	15,000	0
Tax Appeals	-	-	-	-	-	0
Workers Compensation Dividend	4,771	-	-	-	-	0
Property & Liablity Dividend Rev	6,878	6,500	5,349	5,349	6,500	0
Building Permits	45,188	95,000	95,000	69,892	95,000	0
Employee Benefit Contributions	16,000	4,500	-	-	4,500	0
Zoning, Site Plan, Special Use Pern	11,048	6,000	9,000	9,273	9,000	3,000
Plumbing and/or Heating Permits	13,740	24,500	16,000	12,592	24,500	0
Electrical Permits	9,596	16,000	11,000	9,814	16,000	0
Licenses & Registrations	3,495	9,000	14,000	13,220	14,000	5,000
Dog & Cat Licenses	1,289	1,100	1,500	1,241	1,100	0
Cable TV Franchise Fees	115,063	120,000	10,000	58,332	120,000	0
Michigan Job Training Council Fund	805	1,000	1,000	616	1,000	0
SMART Municipal Credits	-	8,700	25,610	25,610	8,700	0
District Court Fines	127,175	120,000	120,000	65,685	120,000	0
Community Development Block Gra	1,219	4,000	14,137	-	8,000	4,000
Sidewalk Permits & Repairs	-	10,000	-	-	15,000	5,000
Nextel Lease	-	-	-	-	-	0
American Tower-Metro-PCS Lease	41,369	45,000	45,000	31,026	45,000	0
Water Fund Lease of DPS Building	4,917	4,917	4,917	4,917	4,917	0
Equipment Rentals - Brush Chippin	-	-	-	-	-	0
Road Funds Lease of DPS Building	1,639	1,639	1,639	1,639	4,000	2,361
Retirees Spouse Medical Coverage	-	-	-	-	-	0
Recreation Fees	29,744	10,000	7,000	5,437	15,000	5,000
Dog Park Revenue	-	2,500	4,000	3,241	1,500	(1,000)
Tree Sales, Woods Chips Sales	160	-	-	-	-	0
Community Center Rental	33,366	25,000	6,000	3,065	15,000	(10,000)
Police Forfeitures Rev - State	-	-	-	-	-	0
Police Forfeitures Rev - Federal	-	-	-	-	-	0
Police Charges for Services	14,131	15,000	16,500	15,523	15,000	0
AT & T Lease	60,889	60,889	60,889	45,667	60,889	0
Donations	9,869	14,000	5,535	-	1,400	(12,600)
Election Reimbursements	-	8,268	8,268	8,268	-	(8,268)
Public Service Reimbursement	9,242	20,000	20,000	13,253	20,000	0
Metro Authority Act Payment	17,096	15,000	15,000	-	15,000	0
Sale of Fixed Assets	-	-	-	-	-	0
Workers Comp Reimbursement	-	-	-	-	-	0
Insurance Reimbursement	-	-	-	-	-	0
Insurance Recoveries	2,236	2,214	2,214	2,214	-	(2,214)
Sale of Abandoned Property	-	-	4,179	4,176	-	0
SOCRRA Refund	-	-	-	-	-	0
Code Enforcement Revenue	-	-	-		-	0
Total - Other Revenue	**622,672**	**678,727**	**546,237**	**425,997**	**668,006**	**(10,721)**

SUMMARY OF EXPENDITURES

- Most noteworthy is just every **internal department has reduced expenses.**
- The original **Capital Improvement Plan** reflected acquisitions of $331,450. This was dramatically reduced in the proposed budget to $100,450.
- Increases in Major/Local Streets, Water/Sewer Fund, and the Debt Service Fund are all related to the **Street and CIP Bond projects** that were authorized.

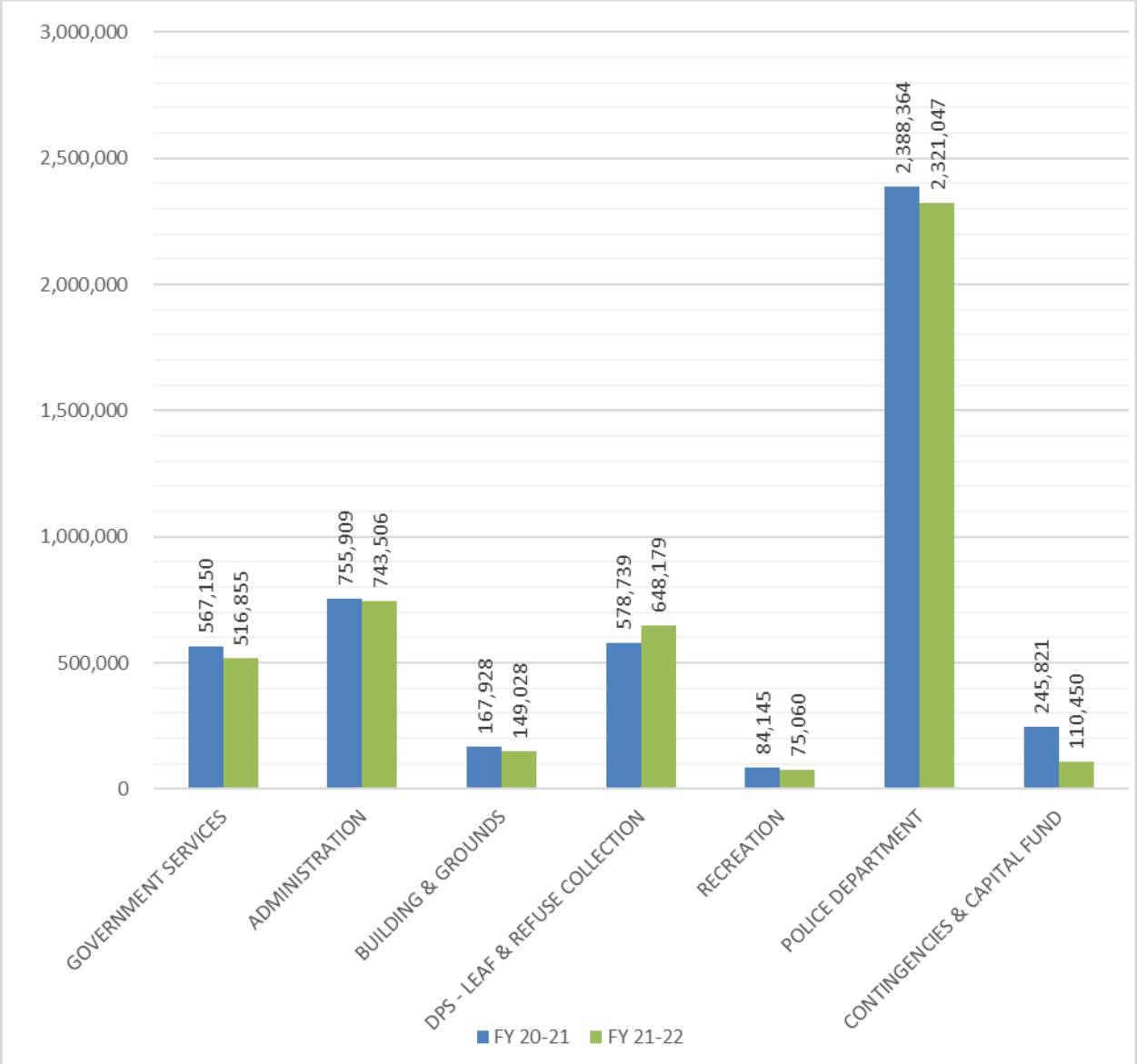
CITY OF LATHRUP VILLAGE
SUMMARY OF EXPENDITURES BY FUND AND SOURCE
FY 2021-22

DEPARTMENT	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
GOVERNMENT SERVICES	472,421	567,150	405,804	381,788	516,855	(50,295)
ADMINISTRATION	644,741	755,909	721,541	551,197	743,506	(12,403)
BUILDING AND GROUNDS	119,461	167,928	147,928	114,149	149,028	(18,900)
POLICE DEPARTMENT	2,060,522	2,388,364	2,377,064	1,740,611	2,321,047	(67,317)
DPS- LEAF & REFUSE COLLECT	489,068	578,739	435,000	419,162	648,179	69,440
RECREATION	81,101	84,145	59,845	47,979	75,060	(9,085)
CONTINGENCIES & CAPITAL FU	112,950	245,821	245,821	245,821	110,450	(135,371)
Total - General Fund	**3,980,264**	**4,788,056**	**4,393,003**	**3,500,707**	**4,564,125**	**(223,931)**
MAJOR STREETS FUND	338,055	167,306	966,358	105,218	1,328,926	1,161,620
LOCAL STREETS FUND	380,814	393,816	1,053,186	271,632	1,548,286	1,154,470
WATER FUND	1,000,994	1,185,229	1,469,629	962,763	2,935,887	1,750,658
SEWER FUND	1,294,340	1,908,232	2,043,964	1,193,828	2,447,634	539,402
DEBT SERVICE FUND	124,002	125,567	125,567	125,567	471,847	345,000
CAPITAL ACQUISITIONS	112,950	245,821	245,821	245,821	110,450	(135,371)
Total Expenditures - All Funds	**7,231,420**	**8,814,027**	**10,297,528**	**6,405,537**	**13,407,155**	**4,593,128**

G.F. EXPENDITURES - FY 20-21 TO FY 21-22

FY 2020-2021 TO FY 2021-2022

DEPARTMENT	FY 20-21	FY 21-22
GOVERNMENT SERVICES	567,150	516,855
ADMINISTRATION	755,909	743,506
BUILDING & GROUNDS	167,928	149,028
DPS - LEAF & REFUSE COLLECTION	578,739	648,179
RECREATION	84,145	75,060
POLICE DEPARTMENT	2,388,364	2,321,047
CONTINGENCIES & CAPITAL FUND	245,821	110,450
Total - General Fund	**4,788,056**	**4,564,125**



EXPENDITURES – GENERAL FUND / GOVERNMENT SERVICES

- **Citizen Communication/PR** – in increased for additional costs related to publishing Your Town quarterly and communications related to water, street and other projects.
- **Training & Conferences** – reduced to reflect many trainings are being held remotely
- **City Planning/Consulting Fee** – last year reflected Master Plan consulting
- **Postage Meter** – increased cost of postage
- **Community Center Payments** – still projected reduced rentals and associated costs
- The **Building Inspection Contract** is reduced since the code enforcement services are now addressed by a full-time position. The costs for this position are shared with the DDA.
- There is only the **general election** in November in 2021.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND GOVERNMENT SERVICES	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Unfunded Pension Liability		-	-	-	-	-
Unemployment Insurance	2	50	-	45	50	0
Workers Compensation Insurance	1,094	8,500	-	332	8,500	0
Office Supplies	6,371	6,000	6,500	5,862	6,000	0
Office Supplies - COVID	1,260	4,500	4,500	3,967	4,000	(500)
Tax Tribunal Appeal Refunds	9,121	2,000	-	-	1,500	(500)
Memberships and Meetings	8,413	7,000	6,000	5,114	6,000	(1,000)
Building Inspection Contract	85,704	132,000	132,000	97,496	70,000	(62,000)
Code Enforcement	180	2,000	1,000	60	2,000	0
Cable TV Productions	36,945	40,000	40,000	31,352	40,000	0
Citizen Communication/ PR	10,331	10,000	17,000	11,450	20,000	10,000
Auditing Services	19,621	19,900	19,900	19,900	24,875	4,975
Telephone Billings	19,032	18,000	18,000	15,135	18,000	0
Vehicle Expense	6,712	7,500	6,000	5,022	7,500	0
City Appreciation Functions	179	1,000	-	-	-	(1,000)
Training	2,751	5,500	-	345	2,500	(3,000)
City Planning/Consulting Fees	4,300	6,000	1,000	435	2,000	(4,000)
City Beautification Projects	-	1,500	500	427	500	(1,000)
C.D.B.G. Funded Projects	1,250	4,000	-	-	2,000	(2,000)
Printing/Publishing Costs	11,910	12,000	15,000	12,499	12,000	0
Postage Meter	2,211	5,500	6,500	5,088	6,500	1,000
Liability Insurance Premiums	29,880	30,000	34,466	34,466	30,000	0
Miscellaneous	-	-	-	-	-	0
Government Operations	39,759	35,000	35,000	30,733	35,000	0
Technology	20,292	35,000	45,000	39,359	45,000	10,000
Library Contract Payments	119,938	149,200	11,938	59,969	152,930	3,730
Community Center Payments	35,167	25,000	5,500	2,733	20,000	(5,000)
Repayment to Water-Unfunded Pe	-	-	-			0
19600 Forest	-	-	-	-	-	0
27907 California NE Drive		-	-	-	-	-
Cash Short/Over	-	-	-	-	-	-
Total - Government Services	**472,421**	**567,150**	**405,804**	**381,788**	**516,855**	**(50,295)**
		0				

EXPENDITURES – GENERAL FUND – ADMINISTRATION

STAFFING

- There is a **2% salary increase** for officers and administrative staff.
- The **2nd Sergeant Position** has been filled and we are budgeting to fill 2 Full-time Officer Positions in the Police Department.
- The **12-hour shift** did not result in any cost savings and will not be continued.
- Part-time **Code Enforcement** position is no longer reflected in the part-time wages.
- **Legal Services** are reduced since there will not be contract negotiations this year.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND ADMINISTRATION	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	339,499	366,481	369,486	254,464	389,700	23,219
Salaries & Wages - Part Time	4,964	46,664	25,000	16,588	15,000	(31,664)
Fringe Benefits	186,892	201,429	182,000	152,921	222,856	21,427
Code Enforcement - Legal Service	14,236	17,000	20,000	17,095	20,000	3,000
Elections	14,764	28,385	30,000	29,055	10,000	(18,385)
Legal Services	49,442	60,000	60,000	47,100	50,000	(10,000)
Board of Review	550	600	555	555	600	-
County Equalization Services	34,395	35,350	34,500	33,420	35,350	0
Total - Administration	**644,741**	**755,909**	**721,541**	**551,197**	**743,506**	**(12,403)**

ADMINISTRATION EXPENDITURES

HISTORICAL COMPARISON

FISCAL YEAR	AMOUNT
F.Y. 16-17	434,831
F.Y. 17-18	431,083
F.Y. 18-19	490,782
F.Y. 19-20	572,823
F.Y. 20-21	755,909
F.Y. 21-22	743,506

EXPENDITURES – GENERAL FUND – BUILDING & GROUNDS

- **Temporary Salaries & Wages** are reduced, anticipating the reduction in the twice daily sanitizing.
- **Parking Lots & Grounds** is increased $4,000 for contracting with City of Southfield for the required sweeping of the City Hall and DPW parking lots under the MS4 Permit.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND BUILDING & GROUNDS	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	-	-			-	-
Salaries & Wages - Temporary	29,518	56,000	31,000	26,940	31,600	(24,400)
Fringe Benefits	-	-	-		-	-
Workers Compensation Insurance	-	-	-		-	-
Building Utilities Billings	44,117	45,000	45,000	31,650	45,000	-
Building Maintenance	28,613	40,000	42,000	35,407	38,000	(2,000)
Building Authority Lease Payments	-	-	-	-	-	-
Equipment Maintenance & Repairs	38	1,500	-	-	1,500	-
Parking Lots & Grounds	9,246	10,000	12,000	10,188	15,000	5,000
Vehicle Maintenance Expense	-	-	-	-	-	-
Building - Grants	7,928	7,928	7,928	2,569	7,928	-
Covid Exp - building	-	7,500	10,000	7,395	10,000	2,500
Total - Building & Grounds	**119,461**	**167,928**	**147,928**	**114,149**	**149,028**	**(18,900)**

BUILDING & GROUNDS EXPENDITURES

HISTORICAL COMPARISON

FISCAL YEAR	AMOUNT
F.Y. 16-17	104,371
F.Y. 17-18	109,295
F.Y. 18-19	119,498
F.Y. 19-20	113,928
F.Y. 20-21	167,928
F.Y. 21-22	149,028

EXPENDITURES - GENERAL FUND – PUBLIC SAFETY

- The Police Department is budgeted to be **fully staffed**. There should be a corresponding reduction in overtime.
- The actual costs for the contract with the City of Berkley for **Prison Lockup** is running lower than previously budgeted. This is reduced to be more closely aligned with actual experience over the past 2 years.
- The contacts for **Southfield Fire and Emergency Dispatch** services reflect a 2% increase.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND PUBLIC SAFETY	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	716,352	845,272	845,272	556,333	830,042	(15,230)
Salaries & Wages - O.T.	52,174	50,000	50,000	23,376	50,000	-
Part Time Employees	106,769	100,000	100,000	97,191	50,000	(50,000)
Fringe Benefits	373,296	529,777	529,777	326,702	527,148	(2,629)
Unemployment Insurance	130	100	100	88	100	-
Police Uniforms & Cleaning	9,927	15,000	15,000	6,684	15,000	0
Workers Compensation Insurance	15,500	15,800	15,800	332	15,800	0
Office Supplies	2,614	5,000	4,000	2,820	4,000	(1,000)
Office Supplies - Covid	-	5,500	5,500	4,305	5,000	(500)
Office Machines	3,743	3,000	3,000	1,948	3,000	-
Publications/Document Reducing	645	1,000	1,000	748	1,000	-
Code Enforcement/Training & Sup	-	-	-	-	-	-
Road Supplies	723	2,000	2,000	1,126	2,000	0
Evidence Supplies	807	1,500	1,000	107	1,000	(500)
Police Reserve Force	291	1,000	500	-	500	(500)
Training Programs	7,410	14,000	14,000	11,096	15,500	1,500
Firearms Training	4,657	4,500	4,000	2,426	4,500	0
Fire Services/Dispatch Payments	668,991	689,623	689,623	626,701	695,462	5,839
Telephone Billings	7,892	8,500	8,000	7,033	8,000	(500)
Radio Communications Agreemen	8,524	16,200	16,200	8,603	16,200	-
Vehicle Maintenance Expense	43,231	37,000	37,000	30,761	37,000	-
Liability Insurance Premiums	24,480	25,092	25,092	25,092	25,594	502
Memberships & Meetings	2,975	3,500	3,500	2,725	3,500	0
Michigan Job Training Programs	1,909	2,000	2,000	1,927	2,000	-
Crime Prevention Programs	1,032	3,000	500	294	2,000	(1,000)
Animal Control	-	1,000	100	91	200	(800)
Prisoner Lockup	6,400	8,000	4,000	2,100	6,000	(2,000)
State of Michigan LEIN Use	-	-	-	-	-	-
Youth & Drug Prevention Programs	51	1,000	100	2	500	(500)
Unfunded Pension Liability	-					-
Motorcycle Lease	-	-			-	-
Police Forfeitures	-	-	-	-	-	0
Total - Public Safety	**2,060,522**	**2,388,364**	**2,377,064**	**1,740,611**	**2,321,047**	**(67,317)**

PUBLIC SAFETY EXPENDITURES

HISTORICAL COMPARISON

FISCAL YEAR	AMOUNT
F.Y. 16-17	2,285,508
F.Y. 17-18	2,045,770
F.Y. 18-19	2,046,640
F.Y. 19-20	2,060,566
F.Y. 20-21	2,388,364
F.Y. 21-22	2,321,047

- Phase 1 of the **Sidewalk Maintenance Program** is being implemented. Property owners have the option to hire their own contractors for the repairs or to have the sidewalks repaired by the City's contractor. The repayment plans could be extended. This requires the City to pay for the Sidewalk Program up front.
- The sections are residential south of 11 Miles/I-696 and the Southfield Business Corridor.
- Estimates are for approximately 450 sidewalk flag replacements (at $150ea): $67,000
- City Council agreed to pay for the **root grinding** of city trees (est. 29 at $75ea): $2,175
- Adding 15% contingency and engineering costs, total project is $97,100.

LATHRUP SERVICES

- Contractual – A cost of living is not currently reflected in this budget.
- The contract is divided between
  - General Fund-Public Services-Contracted Services (31.32%)
  - Local Roads (16.17%)
  - Major Roads (16.17%)
  - Water Fund (18.17%)
  - Sewer Fund (18.17%).

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND PUBLIC SERVICES	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Fringe Benefits (MERS)	6,769	14,000	14,000	10,597	12,000	(2,000)
DPS Utilities For Reimbursement	14,527	21,000	21,000	15,537	21,000	-
Equipment Maintenance	2,905	7,000	7,000	5,392	7,000	-
Park Maintenance	882	5,000	5,000	3,031	7,000	2,000
Sidewalk Maintenance Program	-	30,000	10,000	1,012	90,000	60,000
Vehicle Expense	-	-	-	-	-	-
Subtotal - Public Services	**25,083**	**77,000**	**57,000**	**35,569**	**137,000**	**60,000**
CONTRACTUAL SERVICES	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
Miscellaneous		-			-	-
Subtotal- Contractual Services	**124,000**	**125,239**	**-**	**104,263**	**125,239**	0
LEAF COLLECTION	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
Refuse Equipment & Roll-Off Expens	4,490	4,500	6,000	5,784	6,500	2,000
Subtotal - Leaf Collection	**4,490**	**4,500**	**6,000**	**5,784**	**6,500**	**2,000**
EFUSE COLLECTION & DISPOS	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
SOCRRA Refuse Collection Contract	335,496	372,000	372,000	273,546	379,440	7,440
Subtotal - Refuse Collection & D	335,496	372,000	372,000	273,546	379,440	- **7,440**
Total - Public Services	**489,068**	**578,739**	**435,000**	**419,162**	**648,179**	**69,440**
ELIGIBLE FOR REFUSE MILLAGE	339,986	376,500	378,000	279,330	385,940	9,440
FUNDED THROUGH GENERAL FUND	149,083	202,239	57,000	139,832	262,239	60,000

EXPENDITURES – GENERAL FUND – RECREATION

- The **Community Room** is available for rental, however, there is a reduced number of attendees that are permitted. We anticipate that rental will not increase greatly.
- **Community Events** are difficult to project and remain reduced.
- **Concerts** are reduced because the Lathrup Village Community Foundation will be paying the performers directly. This line item represents the purchase of banners, signs, postcards, etc.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

GENERAL FUND RECREATION	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages	32,535	32,895	32,895	27,202	45,518	12,623
Fringe Benefits	9,528	9,500	9,500	8,268	10,242	742
Workers Compensation Insurance	1,000	800	800	150	800	-
Office Supplies	220	650	650	586	-	(650)
Bus Transportation Services	1,420	3,000	-	-	1,000	(2,000)
Adult Programs	6,963	2,000	3,500	3,179	2,000	-
Special Programs/Sporting Events	-	-	-	-	-	-
Senior Activities	100	6,000	500	162	1,500	(4,500)
Children/Youth Activities	-	1,000	-	-	1,000	-
Community Events	24,835	20,000	7,500	5,631	8,500	(11,500)
Community Center Expense	-	-	-	-	-	-
Fitness Center	-	-	-	126	-	-
Dog Park	-	1,000	3,000	2,311	1,500	500
Recreation Center	-	-	-	-	-	-
Community Garden	-	-	500		1,000	1,000
Grant Funded Programs	-	-	-	-	-	-
Concerts in the Park	4,500	7,300	1,000	364	2,000	(5,300)
Total - Recreation	**81,101**	**84,145**	**59,845**	**47,979**	**75,060**	**(9,085)**

HISTORICAL COMPARISON

RECREATION EXPENDITURES

FISCAL YEAR	AMOUNT
F.Y. 16-17	126,744
F.Y. 17-18	132,998
F.Y. 18-19	131,676
F.Y. 19-20	121,816
F.Y. 20-21	84,145
F.Y. 21-22	75,060

MAJOR STREETS

- Public Act 51 figures are not finalized, but expected to be relatively flat.
- There is a need to set aside funding for the upcoming reconstruction of the next sections of 11 Mile Road
- The **Capital Improvement-Street Funds** reflects the use of street bond millage for projects.
- The tan shade reflects **Street Bond** related revenues & expenses

CITY OF LATHRUP VILLAGE
SUMMARY OF REVENUES - MAJOR STREETS
FY 2021-22

MAJOR STREETS	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
ACT 51 Funds	329,419	388,995	357,000	151,110	357,000	-
Transfer From Other Funds		-			-	-
Investment Interest	1,733	600	600	-	600	-
Transfer From Street Bond Rev			825,420	-	1,058,201	232,781
Total - Major Street Revenues	**331,152**	**389,595**	**1,183,020**	**151,110**	**1,415,801**	**232,781**

MAJOR STREETS						
FUND BALANCE - BEGINNING	188,739	181,836	404,125		620,787	216,662
EXPENDITURES (Net change)	(6,903)	222,289	216,662		86,875	(129,787)
FUND BALANCE - ENDING	181,836	404,125	620,787		707,662	86,875

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

MAJOR STREET FUND MAJOR STREETS	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent						-
Salaries & Wages - Administration	5,670	6,907	7,000	4,177	5,569	(1,338)
Salaries & Wages - Temporary	-	-		-	-	-
Fringe Benefits	1,355	5,569	5,569	1,357	15,143	9,574
Workers Compensation Insurance	-	-		-	-	-
Office Supplies	-	-		-	-	-
Bond Interest				-	98,333	98,333
Auditing Services	5,360	4,311	4,311	4,311	5,521	1,210
Roadside Parks	-	-		-	-	-
Transfer to Local Streets	164,594	-	-	-	-	0
Administration & Engineering	1,639	5,000	1,639	1,639	4,000	(1,000)
Road Construction	-	-	-	-	-	-
Road Maintenance	1,915	5,000	2,000	1,393	5,000	-
Roadside Maintenance	5,031	5,000		-	1,000	(4,000)
Equipment Rental	-	5,000	5,000	3,350	5,000	-
Traffic Controls	21,691	25,000	25,000	8,251	25,000	-
Snow & Ice Removal	4,050	5,500	1,400	1,381	5,500	-
Non-Motor Facilities	-	-	-	-	-	-
Forestry	25,095	36,000	25,000	18,126	36,000	-
Capital Expenditure	37,638	-	-	-	-	-
Subtotal - Major Streets	**274,036**	**103,287**	**76,919**	**43,984**	**206,066**	**102,779**
CONTRACTUAL SERVICES	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
Contractual Services	64,019	64,019	64,019	53,829	64,659	640
Public Service Building		-			-	-
Capital Imp - Street Bond		-	825,420	7,405	1,058,201	1,058,201
Subtotal- Contractual Services	**64,019**	**64,019**	**889,439**	**61,234**	**1,122,860**	**1,058,841**
Total - Major Streets	338,055	167,306	966,358	105,218	1,328,926	1,161,620

LOCAL STREETS

- No funds from **Major Streets** or the **General Fund** will be transferred to the Local Street Fund.
- The Capital Improvement-Street Funds reflects the use of street bond millage for projects.
- The tan shade reflects **Street Bond** related revenues & expenses

CITY OF LATHRUP VILLAGE
SUMMARY OF REVENUES - LOCAL STREETS
FY 2021-22

LOCAL STREETS	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
ACT 51 Funds	154,032	129,665	164,000	70,652	169,000	39,335
Transfer From General Funds	-	149,200	149,200	149,200	-	(149,200)
Transfer in from Major Streets	164,594	-	-	-	-	0
Investment Interest	2,140	600	600		600	-
Miscellaneous Revenue	13,603	13,603	19,414	19,414	13,603	-
Special Assessments	-	-			-	-
Transfer from Street Bond Rev	48,542		825,420	-	1,058,201	1,058,201
Total - Local Street Revenues	**382,911**	**293,068**	**1,158,634**	**239,266**	**1,241,404**	**948,336**

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

LOCAL STREET FUND LOCAL STREETS	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	-					0
Salaries & Wages - Administration	5,670	5,569	5,569	4,177	5,569	0
Salaries & Wages - Temporary		-	-		-	0
Fringe Benefits	1,356	6,907	6,907	1,351	15,143	8,236
Workers Compensation Insurance	-	-	-		-	0
Bond Expense - Construction	-	-	-	9,250	-	0
Bond Interest	-	1,000	-	-	98,333	97,333
Auditing Services	3,185	3,381	3,381	3,381	3,381	(0)
Administration & Engineering	-	-	-	-	-	0
Road Construction	-	-	-	-	-	0
Road Maintenance	230,358	250,000	100,000	90,027	250,000	0
Roadside Maintenance	2,922	-		-	1,000	1,000
Equipment Rental	-	2,000	-	-	2,000	0
Traffic Controls	-	4,000	9,000	7,708	4,000	0
Snow & Ice Removal	4,823	5,000	7,000	6,895	5,000	0
Non-Motor Facilities	5,750	15,300	6,250	1,295	5,000	(10,300)
Capital Expenditure	37,638	-	-	-	-	0
Forestry	25,095	36,000	25,000	16,728	36,000	0
Subtotal - Local Streets	**316,796**	**329,157**	**163,107**	140,812	**425,426**	**96,269**
CONTRACTUAL SERVICES	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
Contractual Services	64,019	64,659	64,659	53,829	64,659	0
Roadside Maintenance		-			-	0
Capital Imp - Street Bond			825,420	76,991	1,058,201	232,781
						0
Subtotal- Contractual Services	**64,019**	**64,659**	**890,079**	**130,820**	**1,122,860**	**232,781**
Total - Local Streets	**380,814**	**393,816**	**1,053,186**	**271,632**	**1,548,286**	**329,050**

WATER FUND – RATES

- FY 21/22 Water rate is increasing $0.26 to $43.74 (based on 1,000 units)
- If the Water Bond Interest payment were to be added to the water rate, the increase would be $16.30 per month.
- Instead of adding to the water usage rate, the Water Bond is being repaid through the **CIP Surcharge at a flat rate of $10.70** per month

WATER RATE REVIEW

WATER	DETROIT	SOCWA	CITY	CAPITAL	TOTAL
WATER RATE - 20-21	0.00	17.73	16.50	9.25	43.48
WATER RATE - 21-22	0.00	17.99	16.50	9.25	43.74
INC./(DEC.) IN $	0.00	0.26	0.00	0.00	0.26
INC./(DEC.) IN %	#DIV/0!	1.47%	0.00%	0.00%	0.60%

	F Y 2021- 2022	
	Revenue	Expenditure
SOCWA/DWSD	351,705	362,704
Penalties	25,000	
Meter Charge	80,645	
SOCWA Fixed Costs		40,296
Capital Improvement	180,838	
Water System Maint		90,000
Interest	4,500	
Lathrup Village Rates	322,575	
Other Water Expenses		210,631
Capital Bonds		0
Billing Expenses	40,000	10,000
CIP Surcharge - Flat	227,268	
Total	**1,232,530**	**1,231,752**

	Projected	Adjusted
Projected Sales:	23,000	19,550
Water Loss Ratio	0.150	15.00%
Fixed Monthly:	$3,358/MO	40,296

WATER EXPENDITURE

HISTORICAL COMPARISON

FISCAL YEAR	AMOUNT
F.Y. 15-16	700,348
F.Y. 16-17	738,477
F.Y. 17-18	721,746
F.Y. 18-19	775,733
F.Y. 19-20	1,124,340
F.Y. 20-21	1,185,229
F.Y. 21-22	2,935,887

FY 21-22
REVENUE REQUIREMENTS
WATER

REVENUE SOURCE	FY 20-21	FY 21-22	INC./(DEC.)	% INC.
SALES	771,544	674,280	(97,265)	-14.425%
PENALTIES	25,000	25,000	0	0.000%
INTEREST	4,500	4,500	0	0.000%
METER CHARGE	81,139	80,645	(494)	-0.613%
CAPITAL PROJECTS	208,495	180,838	(27,658)	-15.294%
MISC	40,000	40,000		
CIP SURCHARGE - FLAT RATE	0	227,268		
TOTALS	1,130,678	1,232,530	(125,416)	9.01%
REQUIRED RATES	38.64	45.79	7.15	15.61%

WATER FUND

- Water/CIP Bond related revenues/expenses are highlighted in blue shade
- **Revenues-Transfer from Bond**- is to cover the CIP projects
- **Capital Expense** –added for CIP projects: water meter, stop box replacement/verification, lead & copper line replacement, water main, fire hydrants, gate valves
- **Water Purchase** – SOCWA has projected a 2% increase

CITY OF LATHRUP VILLAGE
SUMMARY OF REVENUES - WATER FUND
FY 2021-22

WATER FUND	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Water Sales	599,830	771,544	771,544	555,523	674,280	(97,265)
Water Penalties	14,949	25,000	25,000	1,497	25,000	0
Investment Interest	3,029	4,500	1,800	1,417	4,500	-
Miscellaneous - Billling	40,000	40,000	40,000	17,759	40,000	-
Meter Charge	68,814	81,139	81,139	57,237	80,645	(494)
Replacement Reserve Revenue	-	208,495	208,495	-	180,838	(27,658)
CIP Surcharge - Flat Rate		-			227,268	227,268
Transfer from Bond					2,149,600	2,149,600
Total - Water Revenues	**726,622**	**1,130,678**	**1,127,978**	**633,434**	**3,382,130**	**101,852**

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

WATER FUND WATER	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	20,224	19,398	19,398	13,782	19,652	254
Fringe Benefits	93,360	147,426	147,426	91,282	168,991	21,565
Workers Compensation	-	-	-	-	-	-
Office Supplies	-	-	-	-	-	-
Water System Maintenance	75,032	90,000	90,000	33,051	90,000	0
Water Billing Expense	12,514	10,000	10,000	8,499	10,000	-
Auditing Services	4,980	5,129	5,129	5,129	5,232	103
Liability Insurance Premiums	7,130	7,803	7,803	7,803	7,959	156
Water Purchase	383,249	407,800	407,800	297,596	403,000	(4,800)
Rent & Utilities	4,917	4,917	4,917	4,917	4,917	-
System Depreciation	290,861	-	-	-	-	-
Capital Expense Bond- Water Meter		-	-	105	860,000	860,000
Equipment Replacement	258	7,000	2,000	545	2,000	(5,000)
Miscellaneous/Meetings/Training	1,339	3,100	2,500	1,616	1,880	(1,220)
Transfer Out To Capital Acquis	-	-	-	-	-	-
Water Main Project	-	400,000	400,000	371,044	356,600	(43,400)
Pension Expense	35,192	2,000	-	-	-	(2,000)
OPEB Expense	-	8,000	-	-	-	(8,000)
Capital Exp - Stop Box Replaceme	-	-	50,000	1,948	50,000	50,000
Capital Exp - Lead & Copper Line	-	-	50,000	6,139	100,000	100,000
Capital Exp - Water Main Repacem	-	-	-	32,371	475,000	475,000
Capital Exp - Fire Hydrants	-	-	100,000	26,160	84,000	84,000
Capital Exp - Gate Valves	-	-	100,000	290	224,000	224,000
Subtotal- Water	**929,057**	**1,112,573**	**1,396,973**	**902,276**	**2,863,231**	**1,750,658**
CONTRACTUAL SERVICES	**ACTUAL FY19-20**	**BUDGETED FY20-21**	**ESTIMATED FY 20-21**	**ACTUAL 2/28/2021**	**PROJECTED FY 21-22**	**INCREASE (DECREASE)**
Subtotal- Contractual Services	**71,937**	**72,656**	**72,656**	**60,487**	**72,656**	**0**
Total - Water	**1,000,994**	**1,185,229**	**1,469,629**	962,763	**2,935,887**	**1,750,658**

SEWER FUND - RATES

- Rates are estimated to increase due to the Detroit/Evergreen Farmington 3% rate increase, the Chapter 20 drain project, and the Capital Improvements Bonds/Projects.
- The sewer rate increase is $1.56

SEWER RATE REVIEW

CALCULATION FORMULA	FY 20-21	FY 21-22	$ INC.	% INC.
DETROIT/EVERGREEN FARM.	56.85	58.56	1.71	3.00%
LOOK BACK ADJUSTMENT	0.00	0.00	0.00	0.00%
EXCESS FLOW CHARGE	0.00	0.00	0.00	0.00%
OPERATIONS & MAINTENANCE	11.80	12.80	1.00	8.47%
DEBT SERVICE	7.69	8.00	0.31	4.03%
CITY	6.25	6.25	0.00	0.00%
TOTAL	82.59	**85.61**	**3.02**	**3.651%**

FY 21-22
REVENUE REQUIREMENTS
SEWER

REVENUE SOURCE	FY 20-21	FY 21-22	INC./(DEC.)	% INC.
SALES/DISPOSAL	1,422,297	1,266,948	(155,349)	-10.92%
PENALTIES	43,000	43,000	0	0.00%
INTEREST	4,500	4,500	0	0.00%
INDUSTRIAL SURCHARGE	43,000	43,000	0	0.00%
TRANSFER IN - GENERAL FUND	0	0	0	
CAPITAL PROJECTS	265,972	250,240	(15,732)	-5.91%
DEBT SERVICE	173,333	156,400	(16,933)	-9.77%
			0	
TOTALS	1,952,102	1,764,088	**(188,014)**	**-9.63%**
REQUIRED RATES	82.34	85.61	**3.27**	3.97%

	F Y 2021 2022	
	Revenue	Expenditure
Disposal	1,144,760	1,049,794
Industrial Surcharge	43,000	20,000
System Maintenance	250,240	273,000
Contractual Services		72,656
Interest	4,500	
Penalties	43,000	
Lathrup Village	122,188	
Other Sewer		86,519
Retention Tank		250,664
Debt Service	156,400	0
Capital	696,000	695,000
Total	**2,460,088**	**2,447,634**

SEWER EXPENDITURES

HISTORICAL COMPARISON

FISCAL YEAR	AMOUNT
F.Y. 15-16	1,242,797
F.Y. 16-17	1,342,699
F.Y. 17-18	1,341,224
F.Y. 18-19	1,459,704
F.Y. 19-20	1,584,934
F.Y. 20-21	2,033,799
F.Y. 21-22	2,919,481

SEWER FUND

- Sewer/CIP Bond related revenues/expenses are highlighted in blue shade

CITY OF LATHRUP VILLAGE
SUMMARY OF REVENUES - SEWER FUND
FY 2021-22

SEWER FUND	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Sewage Disposal	1,235,857	1,861,601	1,861,601	1,071,999	1,673,588	(188,013)
Sewer Penalties	39,178	43,000	35,000	54,783	43,000	-
Investment Interest	3,772	4,500	1,800	1,427	4,500	-
Capital Contributions (ARRA Funds	-	-	-	-	-	-
Investment Interest - Bond	-	-	-		-	-
Miscellaneous	-	-	-	3,712	-	-
Industrial Surcharge	29,973	43,000	30,000	24,640	43,000	-
Federal State Grants	-	-	-		-	-
Replacement Reserve Revenue	-	-	-			-
Transfer in from Capital Bond	-				696,000	696,000
Total - Sewer Revenues	1,308,780	1,952,101	1,928,401	1,156,562	2,460,088	507,987

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

SEWER FUND SEWER	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Salaries & Wages - Permanent	20,224	19,398	19,398	13,782	19,652	254
Subtotal- Contractual Services	71,937	72,656	72,656	60,487	72,656	0
Fringe Benefits	31,812	54,000	54,000	42,039	53,332	(668)
Sewer System Maintenance	29,883	410,000	410,000	176,497	273,000	(137,000)
Auditing Services	4,980	5,129	5,129	5,129	5,232	103
Liability Insurance Premiums	7,650	7,803	7,803	7,803	7,803	-
Sewage Disposal Service	981,444	1,029,210	1,029,210	771,908	1,049,794	20,584
Rent	-	500	500	-	500	-
Capital Expenditure	-	160,000	30,000	-	145,000	(15,000)
Industrial Surcharge	17,378	34,600	20,000	12,116	20,000	(14,600)
Miscellaneous	-	1,200	-	-	-	(1,200)
OPEB Expense	38,827	-	-	-	-	-
Pension Expense	-	-	-	-	-	-
Subtotal- Sewer	**1,204,136**	**1,794,496**	**1,648,696**	**1,089,760**	**1,646,970**	**(147,526)**
RETENTION TANK						
Electric	19,683	18,707	18,707	13,165	18,707	-
Water	1,437	5,000	5,000	1,048	5,000	-
Natural Gas	351	300	1,200	827	1,200	900
Telephone	2,495	3,000	3,000	2,501	3,000	-
Fuel for Generator	-	500	-	-	500	-
Supplies & Tools	-	1,400	1,000	-	-	(1,400)
Building & Equipment	10,608	15,000	7,000	5,828	6,000	(9,000)
Environmental Compliance - Non C	12,747	20,000	30,000	27,802	30,000	10,000
Bond Expense - Interest	33,334	40,179	174,711	30,566	174,679	134,500
Bond Expense- Paying Agent Fees	750	750	750	750	1,500	750
Excess Liability Insurance	8,800	8,900	8,900	8,900	9,078	178
Bond Exp - Construction	-	-	140,000	9,250	1,000	1,000
Capital Exp - Retention tank repairs	-	-	5,000	3,430	550,000	550,000
Subtotal- Retention Tank	**90,204**	**113,736**	**395,268**	**104,068**	**800,664**	**686,928**
Total - Sewer	**1,294,340**	**1,908,232**	**2,043,964**	**1,193,828**	**2,447,634**	**539,402**

WATER & SEWER AVERAGE MONTHLY RATES

- **Minimum monthly water** rates on residential customers bills will increase from $21.32 to $32.13 per month.
- The typical residential water bill will be comprised of:

WATER (ONLY) BILLING	**FY 20/21**	**FY 21/22**
Minimum Bill Charge (up to 4 units)	$ 17.39	$ 17.50
Meter Charge – ¾" (depends on size)	$ 2.93	$ 2.93
Monthly Bill Charge	$ 1.00	$ 1.00
CIP Surcharge	n/a	$ 10.70
Total Minimum Water Bill	$ 21.31	$ 32.13

SEWER (ONLY) BILLING	**FY 20/21**	**FY 21/22**
Total Minimum Sewer Bill (up to 4 units)	$ 33.04	$ 33.56

TOTAL WATER BILL	**FY 20/21**	**FY 21/22**
Water	$ 21.32	$ 32.13
Sewer	$ 33.04	$ 34.24
TOTAL	**$ 54.36**	**$ 66.37**
WITHOUT BILL & CIP CHARGES	$ 50.43	$ 51.74

	1,000 CUBIC RATE	UNIT RATE	4 UNITS	METER	bill charge	CIP Surcharge	**TOTAL BILL**
WATER							
FY 20/21 min. water	$ 43.48	$ 4.35	$ 17.39	$ 2.93	$ 1.00	$ -	**$ 21.32**
FY 21/22 min. water	$ 43.74	$ 4.37	$ 17.50	$ 2.93	$ 1.00	$ 10.70	**$ 32.13**
SEWER							
FY 20/21 min. sewer	$ 82.59	$ 8.26	$ 33.04				**$ 33.04**
FY 21/22 min. sewer	$ 85.61	$ 8.56	$ 34.24				**$ 34.24**

Rate Comparisons (1,000 units)	2017-18	2018-19	2019-2020	**2020-2021**	**2021-2022**
Water Rates	38.61	39.38	39.97	43.48	43.74
Percent Increase	-0.31%	1.99%	1.50%	**8.78%**	**0.60%**
Sewer rates	78.5	81.70	82.34	82.59	85.61
Percent Increase	0.00%	4.08%	0.78%	**0.30%**	**3.65%**

Combined Rate	**117.11**	**121.08**	**122.31**	**126.07**	**129.35**
Overall Percent Increase	**4%**	**3.58%**	**1.02%**	**3.07%**	**2.60%**

DEBT SERVICE

- Reflects the principal payment on bond obligations
- The Capital Improvement Bonds does not have a principal payment due until Oct. 1, 2022.

CITY OF LATHRUP VILLAGE
SUMMARY OF PROPOSED EXPENDITURES
FY 2021-22

DEBT SERVICE ALL DEBT	ACTUAL FY19-20	BUDGETED FY20-21	ESTIMATED FY 20-21	ACTUAL 2/28/2021	PROJECTED FY 21-22	INCREASE (DECREASE)
Sewer Cap Imp Bonds	83,823	81,138	81,138	81,138	83,293	2,155
SRF Bond	40,179	44,429	44,429	44,429	43,554	(875)
Street Bonds		-			345,000	345,000
Capital Improvement Bonds		-			-	-
Total - All Debt Service	124,002	125,567	125,567	125,567	471,847	346,280

CAPITAL EXPENDITURES

FY 2021-2022			
ACCOUNT/FUND	**EXPENDITURE**	**COST**	
Administration	City Hall Carpet Replacement	$	15,000.00
Administration			
Administration			
Administration		$	-
Public Safety	New Portable Radios	$	30,000.00
Public Safety	Axon Taser	$	4,450.00
Public Safety	Mobile Data Computer Replace	$	3,000.00
Public Safety		$	-
Public Safety		$	-
Public Services		$	-
Public Services	DPS - Leaf Vac Conversion Kit	$	8,000.00
Public Services		$	-
Public Services	New Parking Lot - DPW -Phase 2	$	50,000.00
Recreation		$	-
Recreation		$	-
Water			
Water			
Sewer			
Sewer			
Major Streets			
Local Streets			
TOTAL		**$**	**110,450.00**

Administration		$	15,000.00
Public Safety		$	37,450.00
Public Services		$	58,000.00
Recreation		$	-
Water		$	-
Sewer		$	-
Major Streets		$	-
Local Streets		$	-
Total		**$**	**110,450.00**

PERSONNEL MANUAL OF EMPLOYMENT REGULATIONS

INTRODUCTION

The general purpose of this Personnel Manual of Employment Regulations, hereinafter referred to as Manual, is to set forth terms and conditions of employment and to promote orderly employee relations for the mutual interest of the City, its residents and its employees. The rules and procedures hereinafter set forth, together with any future additions or amendments, shall govern the conditions of employment for the full time administrative staff.

These rules and procedures have been promulgated by the City Administrator and approved by the City Council in order for you to better understand your duties, privileges, and responsibilities as a City employee. All personnel should be thoroughly knowledgeable of the contents of this document. It is important that employees be aware of the conduct which is expected of them and that the rules and procedures will be administered in a systematic, fair and impartial manner.

Any and all statements and policies in this Personnel Manual are subject to unilateral change, in whole or in part, by the City. Also, the City retains the right to, in its sole discretion, change, modify, suspend, interpret, or cancel, in whole or in part, any of the published or unpublished personnel policies or procedures without advance notice and without having to give cause, justification, or consideration to any employee. Recognition of these rights and prerogatives of the City is a term and condition of employment and of continued employment. In addition, nothing contained in this Personnel Manual, including any policies regarding termination, performance evaluation, or discipline, shall be construed to grant anything other than at-will employment. This is not a contract for employment or a collective bargaining agreement.

ADMINISTRATION

The City Administrator or his designee shall be Personnel Director of the City and shall enforce and administer all personnel rules, procedures and employee programs. Just as any employee may resign at any time for any reason or for no reason, the City reserves the right to release an employee, with or without cause and with or without notice, at any time. No employee, supervisor, or other representative of the City has the authority to enter into an employment agreement for any specified period of time or to make any agreement contrary to the provisions contained in this Personnel Manual, except as authorized by the City Administrator. Any such changes and/or agreements made by the City must be in writing and directed to you personally.

SCOPE OF COVERAGE

This Personnel Manual of Employment Regulations shall apply to all paid non-union administrative employees of the City, but shall not apply to elected officials, appointed members of Boards, Commissions and Committees, independent contractors, unpaid volunteer workers, or unionized employees of the City.

(Amended: , 2018)

PERSONNEL MANUAL OF EMPLOYMENT REGULATIONS

Table of Contents

Section	Page
Article 1. Eligibility and procedures for employment	2
Article 2. Employee classifications	2
Article 3. Compensation policy	3
Article 4. Hours and work week	4
Article 5. Overtime	5
Article 6. Holidays	5
Article 7. Vacation leave	6
Article 8. Sick leave	7
Article 9. Emergency leaves	8
Article 10. Military leave	8
Article 11. Other leaves	9
Article 12. Worker's compensation	9
Article 13. Unemployment insurance	9
Article 14. Group insurance programs	9
Article 15. Retirement	10
Article 16. Expense reimbursement	11
Article 17. General personnel rules	12
Article 18. Grievance procedure	17
Article 19. Training and promotions	17
Article 20. Emergency authority	18
Article 21. Longevity	18
Article 22. Family medical leave act	18
Appendix A: Exit interviews	21
Appendix B: Personnel manual of employment regulations	24
Appendix C: Authorization to Release Information	25
Appendix D: Acknowledgment of employment at-will	26
Appendix E: Information systems policy acknowledgment	27

Article 1. **ELIGIBILITY AND PROCEDURES FOR EMPLOYMENT**

1.01 Citizenship
All employees of the City of Lathrup Village must be either United States citizens or aliens who are authorized by State and Federal laws to work in the United States.

1.02 Age
The minimum age for regular full-time employment in all departments is eighteen (18) years.

1.03 Recruitment
The primary objective of the City's recruitment and selection process is to employ the applicant best suited for each vacancy on the basis of his/her qualifications for the position without regard to race, color, creed, national origin, sex, sexual preference, age, height, weight, marital status, religion or disability. The City of Lathrup Village is an Equal Opportunity Employer.

Hiring practices shall be in accord with City affirmative action plans. Department Heads may hire employees for their departments as authorized by the City Administrator, provided:

A. The position vacancy has been advertised and includes a statement that the City of Lathrup Village is an equal opportunity employer and does not discriminate on the basis of race, color, creed, national origin, sex, sexual preference, age, height, weight, marital status, religion or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
B. Applications have been received.
C. Personal interviews have been conducted.
D. The employee takes a pre-employment physical and/or psychological examination done by a physician designated by the City at the request and expense of the City, as contained in the City's conditional offer of employment.

Falsification of information submitted to the City for purposes of application for City employment may result in disqualification or termination of the prospective employee.

1.04 Employment Relationship
Upon employment with the City, all non-union employees must sign as a condition of employment:

A. A statement that he/she has received a copy of, understands, and agrees to work within the guidelines outlined in this Manual.
B. An "Employment at Will" statement acknowledging that employment is at the total discretion of the City and can be terminated by either party at any time without notice and without cause.
C. An "Information Systems Policy Acknowledgement" that outlines regulations and restrictions that govern use of City computer systems, software, internet use etc.

Article 2. **EMPLOYEE CLASSIFICATIONS**

2.01 Regular Full-Time
A regular full-time employee covered under this Manual is one who is filling a position established as part of the permanent work force of the City by action of the City Council and where the regularly scheduled work periods of the position call for service of not less than 160 hours in each 4 consecutive weeks, exclusive of over-time, but including compensatory over-time, paid holidays, and paid leaves.

2.02 Part-time Employees
A part-time employee covered under this Manual is an individual who is hired for an indefinite period, but who works less than a regular full-time employee. If the City requires, or pursues, the use of part-time employees the hours will generally not exceed 128 hours in each 4 consecutive weeks. Employees hired under this section are not entitled to any benefits provided to full-time employees.

2.03 Introductory Period
It is the policy of the City that all new employees and all present employees transferred or promoted to a new job covered under this Manual are to be carefully monitored and evaluated for an initial introductory period of 6 months. The employee is reminded that at all times, including after the successful completion of the introductory period, employment with the City is considered to be “at-will,” and the employment may be terminated at any time without cause.

2.04 Special
Temporary, Seasonal, Student, and Specially-funded employees are those filling jobs which have not been established as regular full-time positions by action of the City Council or who fill-in for regular employees in temporarily vacant positions. Such employees are hired with the understanding that their service is for a particular program or service which is cyclical, collapsible, or intermittent as the needs of the City may dictate and are not considered to be part of the permanent work force of the City. They are, in this sense, irregular, impermanent, or casual labor and are termed "Special Employees".

Article 3. **COMPENSATION POLICY**

3.01 Compensation Plan
The compensation plan for City employees consists of a base pay rate per set period for each position falling under this Manual and provides for increases based on merit, time on the job, and other economic factors as determined by the City Administrator in accordance with the recommendations contained in the City of Lathrup Village Classification and Compensation Study, February 2013. In accordance with the recommendations found therein, a compensation philosophy is adopted that will strive to remain competitive with the market (salaries at or near the range midpoint), thus providing compensation at an average, competitive level. It is the City’s desire to follow this policy to the extent allowed by budgetary constraints.

In addition to the compensation philosophy, a compensation structure is utilized that provides minimum to maximum ranges. The compensation ranges for selected positions, as attached to this Manual, will provide the starting point for all future reviews in accordance with Section 3.02.

3.02 Administering the Compensation Plan
The City Administrator shall administer the compensation plan in accordance with the provisions of this Manual and will conduct, or cause to be conducted, a periodic review and survey to insure that the compensation structure and established ranges remain current recommend any changes to the compensation plan for the consideration of the
City Council during the presentation of the annual budget or other times as deemed necessary. The City Administrator shall have the ability to establish compensation rates within the established compensation range based on the annual salary review/performance evaluation found in Section 3.05.

3.03 Classification Plan
The City Administrator shall prepare and maintain a written position classification plan setting forth the proper structure of position classification in accordance with Section 3.01 of this Article.

3.04 Merit Increases
Compensation adjustments may be provided after periodic salary and performance reviews. They are not automatic increases but, if warranted, will be based on performance and compensation reviews conducted by the City Administrator in accordance with established rules and guidelines.

3.05 Salary Review-Performance Evaluation
Prior to the submission of the annual fiscal year budget, the City Administrator shall meet with each employee covered under this Manual to discuss, review and agree upon goals and objectives to be sought and problems to be addressed during the upcoming fiscal year.

During such time, the City Administrator shall evaluate those operations which were subject to such an agreement during the past year which may be considered in the salary review process. The evaluation of departmental and administrative operations may include:

- Examination of past budget and spending plans.
- The delivery of new or improved services to the public.
- Cost reductions based upon reorganization and realignment of services.
- The maintenance of departmental capital.
- Response to service requests and problems of the public.
- Future planning.
- Other related criteria as determined through the review process.

It is fully recognized that certain administrative positions and operations are defined by law and have various other limitations relative to alterations of service. It is not the intent of this merit plan in any way to change such operations but to foster an atmosphere of management development where potential improvements are encouraged and are to the mutual benefit of employees. Goals and objectives shall at all times be reasonable, objective and subject to mutual review.

3.06 Method of Payment

A. Pay checks for regular full-time employees covered under this Manual are issued semi-monthly (24 pay periods per year) on the 15th of each month and on the last day of each month (pay days) and are issued after 12:00 noon on each pay day.
B. The City Administrator establishes various other pay periods for part-time, seasonal and other special employees with cut-off times sufficiently in advance of pay day to enable the check to be processed.

3.07 Pay Advance

Payroll advances preceding vacations or other authorized leaves may be granted upon request of the employee. All requests must be submitted to the City Treasurer at least one week prior to the payroll period proceeding the payroll period in which the employee will be on approved leave. For example, if an employee will be on approved leave on the last day of the month, the employee must submit the request for an advance payroll check one week before the 15th of the month payroll check.

Pay checks will not be issued before the regularly scheduled time unless approved by the City Administrator for a special emergency, and pursuant to the requirements of the City payroll contractor, currently ADP. The department head, when requested, should forward requests and his/her approval to the Treasurer for action.

3.08 Payroll Deductions

A. Certain payroll deductions are made on all pay checks. There are compulsory deductions for State and Federal income tax and social security. Covered employees also have mandatory deductions for retirement. Arrangements can be made with the Treasurer for a payroll deduction for United States Savings Bonds, the I.C.M.A. Retirement Corporation, or for other deductions such as insurance programs or alternative retirement programs. The City also provides for direct deposit of an employee's payroll check into their financial institution. Requests for such deposits should be made to the City Treasurer's Office.

Article 4. **HOURS AND WORK WEEK**

4.01 Work Week and Hours

A normal work week for full-time employees shall constitute 37.5 hours. When required by operating needs, the City may change the regular work schedule for any employee covered by this Manual.

4.02 Flextime

The City reserves the option of establishing a flexible work week as directed and administered by the City Administrator. A flextime plan will provide that:

A. Participating employees work 37.5 hours in every week, but such employee will be permitted flexibility of the hours to be worked on each day of each week.
B. The schedule will make the most economical, efficient and effective use of the employee's time worked during the week considering the employee's job duties and function. In addition, necessary operational considerations will be given relative to the functions which each employee participating must perform in connection with such employee's job duties and function.

Article 5. **OVERTIME**

5.01 Salaried Employees

A. A non-exempt salaried employee shall be compensated for over-time only if such over-time is specifically authorized in advance by the City Administrator or his/her designee. It shall be either in the form of compensatory time off, pay, or a combination of both, both at the rate of time and one/half, at the option of the employee. Employees shall be allowed to bank up to 40 hours of compensatory time in any given fiscal year. Unused compensatory time will be paid in the first pay period of each fiscal year unless the City Administrator approves a carry over into a subsequent fiscal year.
B. Exempt salaried employees fall under the provisions of the Fair Labor Standard Act and are exempt from the over-time provisions therein. However, exempt employees may receive an allowance for over-time in the form of equal compensatory time off upon request and at the discretion of the City Administrator for approved over-time work. All over-time carried as a credit for compensatory time off may be taken upon request by the employee and approval of the City Administrator. Employees shall be allowed to bank up to 40 hours of compensatory time. This amount may be extended with approval of the City Administrator. Unused compensatory time will be paid in the first pay period of each fiscal year unless the City Administrator approves a carry over into a subsequent fiscal year.

Occasional meetings and duty functions where presence is required outside of normal duty hours in and out of the City are considered part of the duties of the job and are not separately compensated unless approved by the City Administrator in advance.

Article 6. **HOLIDAYS**

6.01 Paid Holidays

A. Holidays at full pay are granted to all regular full-time employees including their introductory period based on the following schedule:
    A. New Year's Day- January 1
    B. Martin Luther King Day - Third Monday in January
    C. Presidents Birthday - Third Monday in February
    D. Good Friday
    E. Memorial Day- Fourth Monday in May
    F. Independence Day- July 4th
    G. Labor Day- First Monday in September
    H. Thanksgiving Day- Fourth Thursday in November
    I. Friday After Thanksgiving Day
    J. Christmas Eve Day- December 24th
    K. Christmas Day- December 25th
    L. New Year's Eve Day- December 31st
    M. Employees Birthday (Eliminated as of 12-31-2008)
B. When a holiday falls on a Saturday, the preceding Friday will be observed as a holiday.
C. When a holiday falls on a Sunday, the following Monday will be observed as a holiday.

6.02 Eligibility
To be eligible for the holiday pay, the employee must work the regular working day before and the regular working day after the holiday except for the following occurrences:

A. Sick and unable to work.
B. On authorized leave.
C. Leave without pay.
D. Authorized compensatory time.

6.03 Personal Leave
Three (3) personal paid leave days shall be allowed for each regular full-time employee for personal business. Employees will be credited each January 1st. If not used, such personal leave days will be forfeited and not carried over to subsequent periods. Selection of the days by the employee shall be subject to approval of the employee's supervisor (if any) or the City Administrator.

6.04 Temporary, Part-time, and Seasonal Specially Funded Employees
Temporary, Part-time, Seasonal Specially Funded employees are not eligible to receive holiday pay.

Article 7. **VACATION LEAVE**

7.01 Vacations Defined
Annual vacation leave is authorized time off from employment duties, with pay. It is intended that the employee will use the time for rest and relaxation so that he/she may serve the City more effectively upon return to duty. Authorized leave days not taken within the applicable fiscal year will be canceled unless a carryover is expressly authorized in writing in advance by the City Administrator.

7.02 Eligible Employees
Vacation leave is granted to Regular Full-time employees only, including employees in their introductory period, pursuant to the provisions of Section 7.04.

7.03 Vacation Crediting - Administrative Employees
Annual Vacation Leave is administered on a fiscal year basis beginning each June 1st. On that date all eligible employees are credited with the number of days of vacation which may be taken during the following 12 months based on their period of service to the City starting with their first day worked. The following schedule applies to employees covered under this Manual:

Years of Service	Paid Days Off
1-4	10
5	15
6	16
7	17
8	18
9	19
10 or more	20

7.04 Vacation Accrual
Vacation days begin to accrue from the first day worked and will be credited the next June 1st, but the time off may not be taken during the first 6 months of employment unless specifically authorized by the City Administrator. If the initial 6 months of service is never completed, the employee will not be paid for the unused time. Employees will not be entitled to take paid leave in advance of being credited on June 1st unless express prior authorization is given in writing by the City Administrator. In cases of re-employment after severance, credit will be allowed for the current period of service only.

An otherwise eligible employee with less than one full year, but more than six months of service prior to June 1st, will be allowed annual vacation leave in the proportion that his actual service bears to a full year of service (6.667 hours per month).

7.05 Vacation Payout

An employee who ends employment in good standing is entitled to pay at his/her then regular rate for credited and unused leave days and also accrued and un-credited leave days as of the date of separation. Employees shall not be entitled to leave accrued beyond the applicable June 1st if any of the following applies:

A. He/she is discharged, including being absent for 3 consecutive days without authorized leave
B. He/she resigns/quits without at least 30 working days' prior written notice.

7.06 Exception to Accrual

An employee who does not work and is not entitled to his/her wages from the City shall not accrue leave during the period for which no pay is due.

7.07 Leave Schedules

Leave schedules shall be developed by the covered employee in consultation with and the advanced approval of the City Administrator. Reasonable care in scheduling the Leaves will be considered so as to maintain departmental services.

7.08 Leave Accruals and Payoff Calculations

The City Administrator may promulgate official calculation worksheets for use by the Treasurer in calculating vacation leave accruals and payoffs.

7.09 Emergency Suspension of Leave

The City Administrator may declare an emergency and temporarily suspend scheduled leaves during the period of such emergency. Such leaves will be rescheduled promptly after the emergency is over.

Article 8. **SICK LEAVE**

8.01 Sick Leave Accrual

A regular full-time employee shall accrue sick leave at the rate of one working day per month of actual service, including vacation leaves, beginning with the first full month of service. Sick leave shall not accrue while an employee receives sick benefits or Worker's Compensation payments or is otherwise absent from the job. Sick leave may not be granted in anticipation of future service.

8.02 Notification of Sick Leave Usage

To be eligible for sick leave pay, the employee shall notify the City Administrator that he/she will not report for work that day, as soon as possible prior to the beginning of a scheduled shift. Failure to do so may be cause for denial of sick leave with pay.

8.03 Sick Leave Use

A. Sick leave shall be taken only when the employee is actually disabled from working. Evidence of disability must be provided by medical certificate or other suitable proof for all sick leave granted beyond 3 consecutive days, provided that the granting of all sick leave pay be subject to such verification as the department head and the City Administrator may see fit to require, including examination by a physician selected by the City.
B. Sick leave may be allowed in case of total disability occurring during a vacation period. Evidence of such disability from the first day must, however, be provided to the satisfaction of the department head and the City Administrator in all such cases. c. Routine or special appointments with medical doctors, dentists, etc. will be chargeable to sick leave only when it is impossible for the employee to schedule an appointment at a time other than during his/her regularly scheduled working hours.

C. Sick leave may be charged in cases of injury or illness in the employee's immediate family. Immediate family shall be limited to the employee's spouse and children who reside in the employee's home. Exceptions to this rule may be granted by the City Administrator. The employee is encouraged to review Article 22, Family Medical Leave Act, for further information on sick leave absences.

8.04 Termination of Employment

Sick leave shall be considered for most purposes as continuing, however, in the event of termination of employment all unused sick leave shall be canceled and not paid with the following exception(s):

A. A retiring employee (hired prior to July 1, 2008) who ends employment in good standing is entitled to pay at 50% of his/her then regular rate for credited and unused sick leave days.

8.05 Excess Accumulation Buy-Back

Effective June 30, 2009, the City will not buy back excess sick time on an annual basis. However, there shall be no cap on the accumulation of sick time in the employee's sick leave bank.

Article 9. **EMERGENCY LEAVES**

9.01 Bereavement Leave

A. In the case of death in the "immediate family" a regular full-time employee may be granted a leave of absence with pay for a period not to exceed three days. Such leave may be subject to verification of conditions by the City Administrator or department head as required. Up to an additional 3 days may be taken, if necessary, and with approval of the City Administrator.
B. "Immediate Family" is defined as current spouse, children, brother, sister, parent or parent-in-law, grandparent and grandparent-in-law, and relatives living in the same household regardless of relationship.

9.02 Family and Medical Leave Act ("FMLA")

The City will comply with the provisions of the federal Family and Medical Leave Act (FMLA). Article 22 of this manual outlines the FMLA's requirements, including the rights and obligations of employees, notification requirements, and the City's requirements.

9.03 Emergency Leaves Charged to Sick Time

All emergency leave days shall be charged to sick leave, unless otherwise noted by this policy.

Article 10. **MILITARY LEAVE**

10.01 Military Leave Granted

Any regular full-time employee who has completed his/her introductory period and leaves the City's service for compulsory military duty shall be placed on military leave without pay for the period of service or duty required and for a period of ninety calendar days following the period of actual required service or discharge from a veteran's hospital.

10.02 Reinstatement

An employee returning from military leave shall be entitled to restoration to his former position, provided he makes application within 90 days after his release from duty under conditions other than dishonorable and is physically and mentally capable of performing the duties of the position involved.

10.03 Former Position Non-Existent

In the event the employee's former position is non-existent, or the employee is no longer physically qualified for the former position after the City attempts reasonable accommodation for any disability and is unable to satisfactorily perform duties of another position, every reasonable effort shall be made to place such employee in another position. This section should not perceived as a guarantee of future employment.

10.04 National Guard or Other Military Reserve Service
All employees belonging to the National Guard are permitted to take leaves of absence without pay during the annual training period. This leave is not to exceed two weeks per fiscal year ending June 30. Vacation privileges are not affected by such leaves, however, an individual who receives military training leave will automatically be considered last when the schedule for vacation leave is determined.

Article 11. **OTHER LEAVES**

11.01 Jury Duty
When on jury duty the employees will be granted their full pay. Any jury pay or fees must be turned over to the City Treasurer. Jurors, when not assigned to cases, must report to their work for the remainder of the day.

Article 12. **WORKER'S COMPENSATION**

12.01 Worker's Compensation Eligibility
Any employee who sustains a disabling injury in the performance of his/her regular duties may be eligible for Worker's Compensation benefits in accordance with applicable Worker's Compensation laws of the State of Michigan. To be eligible for benefits under Worker's Compensation all employees shall report all work related illnesses, accidents and injuries resulting in a disability to their immediate supervisor as soon as practicable and they are expected to accept any first aid or other medical treatment tendered or waive same in writing.

12.02 Disability Leave
Regular full-time employees are eligible to apply for and receive a salary continuation benefit from the City if they suffer an illness, accident, or injury covered by Worker's Compensation under a program which is intended to relieve them of the adverse consequences of the statutory compensation scheme under the following procedures:

A. Upon receiving a report of absence from work which appears to be the result of covered illness, accident or injury, the City shall pay the employee his/her basic weekly wage during the first seven days of disability as a charge against his/her sick leave bank.
B. After the first seven days, an employee who is eligible for, and receives Worker's Compensation may reimburse the City for the first week of sick leave use and have his/her sick leave bank credited.
C. Thereafter, the employee shall be entitled to receive a salary supplement equal to the difference between his/her full base pay and Worker's Compensation benefit rate until such time as he/she is able to return to work or his/her sick leave bank is exhausted.

Article 13. **UNEMPLOYMENT INSURANCE**

13.01 Unemployment Compensation
The City participates in the Michigan Municipal Worker's Unemployment Compensation Group Account established by the Michigan Municipal League. Questions regarding this benefit should be directed to the City Treasurer.

Article 14. **GROUP INSURANCE PROGRAMS**

14.01 Group Life and AD & D Insurance
The City provides group life and Accidental Death and Dismemberment insurance coverage for each regular full-time employee upon completion of six months of continuous service. The current amount of insurance is based on a $1,000 for $1,000 of base compensation as long as the employee can qualify for such coverage.

14.02 Hospitalization Insurance - Regular Full-time Employees Only

Health care insurance benefits are provided for regular full-time employees only. Specific coverage for employees is defined below.

A. Employee will be required to contribute 20% of premiums (deducted with each pay period).
B. For employees (hired before December 31, 2007) covered under this Manual the City provides Blue Care Network High Option 5 coverage with a $10/20 co-pay for prescription drug through the Blue Care Network of Southeast Michigan. (Or similar.)
C. For full time employees (hired before December 31, 2007) the City shall continue hospitalization coverage after retirement for the retiree and spouse.
D. For full time employees hired after December 31, 2007, the City will provide coverage for up to 2 persons with Healthy Blue Living Blue Cross Coverage or similar for the employee/spouse. In addition the City will contribute 2% of the base salary into a Health Savings Account (MERS, ICMA or similar) account for retirement health care.
E. For full time employees hired after July 1, 2013, the City will provide coverage for up to 2 persons with Healthy Blue Living Blue Cross Coverage or similar for the employee/spouse.In addition the City will contribute 2% of the base salary into a Health Savings Account (MERS, ICMA or similar) account for retirement health care.
F. As of July 23, 2015, The City will provide coverage, upon request of the employee, for his/her spouse and/or dependent children under age twenty-seven (27), but shall not be required to provide coverage for additional persons.

14.03 Health Insurance Opt-Out

Each full time employee who chooses not to join the Employer provided health care plan and has equivalent health care coverage from another source (such as a spouse's employer) shall be entitled to compensation during the period that he/she has no City provided coverage at the rate of $3,000 per year. Payments of $1,500 will be made semi-annually as of June 30 and December 31 of each year to each employee who has not been covered for the previous six months, except that payments will be prorated to meet the dates the employee first participates and/or ends participation in the program. Electing employees must show periodic proof of the existence of the alternate health care coverage in order to become and remain eligible to receive the semi-annual payments. Electing employees must notify the Employer promptly when the relevant alternate health care coverage ceases for any reason and will be added to the Employer's coverage as soon as permitted by carrier regulations and/or procedures and coverage will be afforded under the Plan then in effect for employees which has the least cost to the City.

14.04 Disability Insurance

The City will provide long term disability benefits through Standard Insurance Company (or substantially equivalent) benefits to those provided in prior years from any carrier for all full-time employees. The coverage includes compensation of up to 60% of the employee’s base wage and begins 180 days after disability occurs. The employee should refer to the benefit booklet provided as a part of this Manual.

14.05 Dental/Optical Insurance Plan

For all regular full-time employees covered under this manual the City will provide dental and optical plans through Blue Cross Blue Shield (or similar).

Article 15. **RETIREMENT**

15.01 Plan Designation

All full-time employees become members of the Michigan Employee's Retirement System (MERS) defined benefit plan and will receive such benefits as are provided by Public Act 135 of 1945.

A. Full time employees hired before December 31, 2007, receive benefit program B-4 with FAC-3. Voluntary retirement will be provided at age 55 after 15 years of service without reduction of pension benefits will be provided to Department Heads only with an effective date of January 1, 2000.

B. For full time employees hired after December 31, 2007, the benefit provided will be MERS benefit B-2 with FAC 5. Normal retirement will be at age 60 with 10 years of service. For these employees, voluntary retirement will be provided at age 55 with 25 years of service.
C. For full time employees hired after July 1, 2013, benefits will be provided through a MERS Defined Contribution (DC) plan. Section 15.02 outlines employee contributions and vesting within the DC plan.

15.02 Member's Contributions

Each active member contributes to the Retirement System in the amount of 5% of annual compensation.

A. If an employee (hired before July 1, 2013) leaves the employment of the City before the employee has become vested, the member's contributions to the retirement system will be returned, if living, or to the nominated beneficiary.
B. If an employee who qualifies for a MERS DC plan (hired after July 1, 2013) leaves the employment of the City the member's contributions to the retirement system will be returned, if living, or to the nominated beneficiary along with the City's matching contributions according to the following scale:

Years of Service	City Contribution
1 – 2	0%
3	25%
4	50%
5	100%

15.03 Additional Plan Information

The City Treasurer can provide additional details regarding: Regular Retirement Allowance, Deferred Retirement Allowance, Non-duty Death Retirement Allowance, Duty Death Benefits, Disability Retirement Allowance, Scope of coverage, and other features of the plan.

15.04 Deferred Compensation Plan

Regular full-time employees covered under this Manual are eligible to enroll in the ICMA Retirement Corporation Plan if they so desire. The Plan allows employees to contribute a portion of their wages to the Plan on a tax deferred basis. The City Treasurer will make materials available to interested employees, but it must be understood that each affected employee must assume full responsibility for investigating all factors relating to whether enrollment would be beneficial to him/her without relying upon any advice or opinions of City representatives.

15.05 City Match Program

For employees covered under this Manual the City agrees to provide a program through the ICMA RC that will contribute up to 2% for Department Heads of the employee's annual compensation, provided that the employee matches or exceeds this contribution. The City's contribution will be set by City Council and referenced in the City Administrators contract.

Article 16. **EXPENSE REIMBURSEMENT**

16.01 Mileage

Employees required to use their own vehicles for City business will be reimbursed by the City at the then current IRS mileage rate, provided:

A. The employee has the consent of the City Administrator prior to using his/her private vehicle.
B. The employee is properly insured.
C. The employee submits a properly filled out travel voucher to the City Administrator.

16.02 Parking

The cost of parking will be paid by the City. The City assumes no responsibility for any traffic violations incurred by the employee.

16.03 Meal Compensation
Reimbursement for meals will be determined by the City Administrator. Receipts are required.

16.04 Air Travel
Employees who fly to a destination must first receive prior authorization from the City Administrator. If approved, the air fare on a commercial airline will not exceed coach rates.

16.05 Lodging
Employees requiring overnight lodging must submit a receipt, and it must reflect the most economical rate available at that facility. In the event that the travel does not involve staying at a conference site, then the employee must make a conscientious attempt to obtain economical, yet comfortable lodging.

16.06 Ineligible Expenses
The City will not reimburse employee for any expenses relating to spouse or a travel companion. In addition, the City will not reimburse for expenses that are not directly related to City business, such as entertainment, travel insurance, alcoholic beverages and personal expenses such as laundry and valet services. Any expenses not clearly identified should be brought to the attention of the City Administrator for his/her decision.

Article 17. **GENERAL PERSONNEL RULES**

17.01 Ethics and Code of Conduct
Each employee is required to conduct him/herself efficiently and in a professional manner at all times. No employee of the City shall:
1. Use their public office or employment for private gain;
2. Give preferential treatment to any organization or person except as expressly permitted by law, ordinance, resolution or policy;
3. Impede government efficiency or economy for personal gain or profit;
4. Engage in private or other public employment or render services for private or other public interests when such employment or service is incompatible with the proper discharge of his/her duties of the City;
5. Expend public funds unlawfully or without proper authorization;
6. Verbally, physically or psychologically abuse any citizen, elected official, supplier, vendor, guest or co-worker;
7. Refuse to carry out work assignments;
8. Be excessively absent or tardy;
9. Work or report for work under the influence of alcohol or unlawful drugs, and/or possessing alcohol or unlawful drugs on the premises of the City;
10. Falsify or misuse City forms, records or reports, including time sheets and employment applications;
11. Steal, misappropriate, remove or misuse property belonging to the City or another. The City reserves the right to inspect all City offices, desks, files, vehicles and packages;
12. Fail to return from an authorized leave of absence or vacation at the designated time;
13. Discriminate or harass others;
14. Possess weapons, firearms or explosives on City property;
15. Disclose or misuse confidential information. Employees should assume that all information about the City is confidential;
16. Fail to maintain proper grooming, dress cleanliness and hygiene.
17. Misrepresent time worked;
18.Gamble on City property.

These rules are not all-inclusive, and the City reserves the right to discipline employees for acts or omissions which are not listed above.

With regard to general work rules, it is impossible to create an exhaustive list of behaviors or potential infractions. The City expects that common sense, professionalism and general decency will govern personal conduct. Employees should at all times act as good stewards of the public's trust and resources.

The work place brings together many different types of people whose unique perspectives and individual skills and talents add tremendous value to the organization. We serve the public best when functioning enthusiastically as a coordinated team of professionals. All employees, at every level within the organization, are expected to treat each other as respected and valuable colleagues.

17.01 Time and Personnel Records

A record of time worked is kept by each employee on a weekly time card supplied by the City. Weekly Time Cards are to be turned in to the appropriate department head at the end of each week. The City Treasurer will collect and retain all time cards.

All requests for vacation, sick leave, bereavement leave, personal days and compensation time should be reported to the appropriate department head at least 48 hours in advance on the City's Absence Report. It is the responsibility of the Department Head to report granted requests to the City Administrator.

17.02 Absences

Employees are expected to maintain good attendance records. Excessive absences shall be cause for dismissal. Absences for 3 consecutive work days without notifying the supervisor is considered a voluntary termination.

An employee who is absent for any reason is required to notify his/her supervisor prior to starting time. All absences must be charged to accrued compensatory time, accrued vacation, sick leave or personal time, whichever is appropriate. When no time is available, unpaid leave may be granted pursuant to Section 11.02.

17.03 Tardiness

Unless on an approved leave, employees are expected to be at work and to observe the working hours established by the City. All employees who report late may be penalized by the way of a pay deduction in multiples of 1/10 of an hour. Habitual tardiness shall be cause for discharge.

17.04 Personal Hygiene

Employees are expected to observe and practice good taste in dress and appearance. Although the City does not specify a dress code, employees are expected to dress to accommodate their daily responsibilities.

17.05 Safety

The City makes every effort to provide for the safety of all employees while on the job. Employees, in turn, are required to promote safe working conditions by following all safety rules. No employee shall in any way alter a safety device or interfere with the use of a safety device. Employees shall take no unnecessary chances, use all safe guards and safety equipment and report all potentially dangerous work practices, unsafe work conditions, horseplay, negligence and carelessness to their department head or the City Administrator.

17.06 Political Activity

No employee shall participate in any election activity on City property during business hours.

17.07 Solicitation and Gifts

No employee or individual shall solicit for an organization's product or service on any City property during regular hours unless specifically authorized by the City Administrator. City employees shall provide service to its citizens and receive service from its suppliers for the wages they are paid, and should not expect other favors. Therefore the policy is established under which an employee may not accept any gift or consideration of any kind or nature if its acceptance might reasonably be construed as tending to prevent him/her from acting solely in the best interests of Lathrup Village. The acceptance of gifts of more than nominal value (below $30.00) is considered to be a direct violation of the intent of this policy.

17.08 Telephone Use

Telephones are provided for business purposes. Telephones should not be used for personal reasons except for emergencies or absolute necessity. Employees should discourage persons from calling them at work. At no time is an employee permitted to charge a personal call to the City. Long distance business calls must be logged and submitted to the Treasurer no later than the close of business at the end of each month.

Each employee is to pay for personal calls, except when an employee must stay over at work in which case the employee may notify the family of the stay over.

17.09 INFORMATION SYSTEMS POLICY

The purpose of this policy is to inform all City employees about the legal requirements and restrictions concerning the acquisition and use of software programs on the City's computer equipment, the responsibilities of each employee to protect the security and integrity of the City Information System's programs and data, the City's investment in that system, and restrictions regarding the use of email and the Internet.

17.10 Copyright Protected Software

Unauthorized duplication of copyrighted software is a violation of the Federal Copyright Law, and can be subject to civil damages of as much as $100,000 per copyright violation, and criminal penalties including fines and imprisonment. Both the City as an organization and the City's employees as individuals are responsible for compliance with this Law.

Compliance with software copyright requirements is in the City's best interests. In addition to protecting the City from possible legal prosecution, it helps support the development of new and improved software products, which make the City's operations more efficient, and it entitles the City to receive technical support and discounted product upgrades.

It is the City's policy to comply fully with the Federal Copyright Law, and the specific terms and conditions in the licenses for all software which is used on the City's computer equipment. Specifically, every employee shall be responsible for complying with the following policies:

A. Every employee shall use the City's Information Systems only in a manner, which does not violate the Federal Copyright Law, or the terms of the license related to the software being used.
B. No software program shall be used by more employees at any one time than are allowed under the program's licensing agreement. The use of programs on the network is controlled to avoid such a violation. No employee shall transfer any software from the City's Information Systems to any personal computer's hard disk, directly or indirectly, without the specific permission of the City Administrator.
C. No employee shall make a copy of any software on the City's Information Systems or any City personal computer, except for the City's own backup purposes.
D. No employee shall take any original or duplicated copy of any software owned by the City for the employee's personal use. No employee shall give any original or duplicated copy of any software owned by the City to any outside third party

E. No employee shall use any program on the City's Information Systems or any City personal computer for personal gain, nor for the advantage of any outside third party, nor in any other way except in accordance with the policies of the City.
F. No software shall be loaded onto the City's Information Systems or any City personal computer, unless the original copy and proper license is owned by the City and is on file at City Hall. No employee shall load any software onto the City's network file server or any City personal computer without the specific permission of the City Administrator. The City shall conduct periodic audits on all computer equipment to verify compliance with this policy.

17.11 Network Data Use and Security

In order to maintain the security and integrity of the data on the City's Information Systems, all employees shall comply with the following policies:

A. No employee shall make a copy of any data record or file which resides on the City's network file server or any City personal computer, except for the City's own backup purposes, or in accordance with other specific written policy of the City.
B. No employee shall use any data or other information on the City's Information Systems or any City personal computer for personal gain, nor for the advantage of any outside third party, nor in any other way except in accordance with the policies of the City.
C. Employees of the City have an ongoing opportunity to access confidential information or records that are only available to the general public on a limited review or purchase basis. Employees must not divulge information contained in the records and files of the City, except to other employees who may need such information in connection with their duties and to authorized parties in accordance with proper procedures such as requests under the Freedom of Information Act.
D. If an employee is approached to provide information inappropriately, the employee must refuse to release the requested information in accordance with applicable procedures, or refer the requestor to the employee's immediate supervisor.
E. It is a very serious offense (with a penalty as severe as dismissal), for an employee to release or use for personal purposes, confidential information obtained in the course of employment. Any employee who inappropriately releases information, or uses confidential information for personal reasons, will be disciplined in accordance with established policies and procedures.

17.12 Network Access Security

In order to maintain the security and integrity of the City's network computer system, all employees shall comply with the following policies:

A. Every employee shall keep his or her personal network access passwords strictly secret. No employee shall reveal those passwords to any other person, including any other employee. If the network system is accessed in an unauthorized manner using an employee's password, that employee will be held personally accountable regardless of the circumstances. If any employee is uncertain about the security of any personal password, it should be changed immediately.
B. No employee shall permit any unauthorized person to gain access to the City's information systems system.
C. No employee shall furnish any information to any unauthorized person about the hardware or the software used by the City, nor the method of accessing the City's Information Systems, without the expressed written consent of the City Administrator.

17.13 Software Specification Policy

The goal of the City is to establish an Information System, which is efficient and effective for both the employees and the public, and at the same time, is economical to operate and maintain. To this end, the following standards for purchasing and developing City software shall be observed:

A. To the greatest extent possible, the City departments shall purchase software applications which are expected to have long-term publisher support available, and which do not require extensive in-house technical knowledge and support to operate. To achieve this, departments shall attempt to modify internal operations to conform to the software selected, to the greatest

extent possible, and shall not contract for custom modifications to any City software without the specific approval of the City Administrator.

B. The City shall standardize on one database management system, and shall develop all in-house programs on the basis of a standard well-documented procedure for using that system, so that the City will not be dependent on the knowledge or presence of any individual employee in order to operate and maintain such programs.
C. If any program or application is proposed to be acquired or developed which does not meet the above standards, the City Administrator shall advise the City Council of such intention at a regular meeting of the Council, along with the reason for that decision, before proceeding with such purchase.

17.14 Software Created by City Employees

All software programs created by City employees, using the City's equipment and licensed software, are the property of the City of Lathrup Village, and shall be subject to the same restrictions as provided for licensed software in Section 17.10, except as provided otherwise in any agreement between the City and such employee which has been approved by the City Council.

17.15 E-mail

It is the intent of the City to provide a structure in which electronic mail can be used effectively by the City while not being abused. Electronic mail messages are official records when they are created or received in the transaction of public business and retained as documentation of official policies, actions, decisions or transactions. It is the responsibility of the users of the electronic mail system to use the system for legitimate City business purposes.

17.16 Monitoring of Electronic Mail

All electronic mail messages are the property of the City. As a matter of general policy, the City ***will not*** monitor electronic mail messages. However, the City reserves the right to access messages under the following circumstances or whenever it is determined by the City Administrator that the reasons for doing so are consistent with the City's need for supervision, control and efficiency in the workplace:

- Upon leaving employment with the City for any reason, a user's mail may be accessed for the purpose of saving those messages that pertain to City business
- If required by law to do so
- When necessary to investigate a possible violation of a City policy
- In the event there is reasonable suspicion that a user has committed or is committing a crime against the City or for which the City could be held liable
- In the event there is reasonable suspicion that a user has violated any of the prohibited uses listed in this policy

No City employee will conduct monitoring of electronic mail messages unless directed by the City Administrator to do so.

17.17 Internet

This policy applies to use of the Internet utilizing the City authorized user ID thereby covering the employees' representation of the City. In general, City employees have an obligation to use their access to the Internet in a responsible and informed way, conforming to Internet etiquette, customs and courtesies, and representing the City in a positive manner. Use of the Internet by City employees constitutes acknowledgment of this policy.

Employees are further required to sign a copy of the “City of Lathrup Village’s Information Systems Policy Acknowledgment” prior to Internet access and comply with the provisions included in this policy, as well as those in other policies that relate to the topics included. Prohibited use of the Internet includes, but is not limited to, the following:

- Illegal activities

- Threats
- Harassment
- Slander
- Defamation
- Sexually obscene/offense messages, materials, or images
- Racially offensive or derogatory material/messages
- Political endorsements
- Commercial activities
- To send chain letters
- To send copies of documents in clear violation of copyright laws
- Using non-business software including games or entertainment software
- Activities resulting in, or relating to, personal gain or for profit enterprise
- To compromise the integrity of the City in any way

17.18 Social Media

The City expects that staff participation in personal social networking sites will not be disruptive or subversive to the City's interest in maintaining an efficient and effective workplace.
Any information provided on a personal social networking site with regard to the City or your employment with the City is expected to conform to established policies regarding access to and release of information and communications procedures. The City's logo or other proprietary information or images are not to be used.

Further, employees should be thoughtful in how they present themselves and how their online presence may reflect on them as employees of the City. Social networking that includes your status as an employee of the City must be done in good taste and reflect sound judgment. Social networking that adversely affects the City or is disruptive or subversive to the City's interest in maintaining an efficient and effective workplace, is subject to corrective and disciplinary action up to and including discharge.

The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on its social media sites, and therefore has established a social media policy detailed in the attached Appendix F. All employees shall abide by the guidelines contained in the City's Social Media Use Policy when using the City's social media sites.

17.18 Harassment
(alternative to existing 17.18 Prohibition Against Sexual Harassment)

It is the policy of the City that harassment in the workplace will not be allowed or tolerated. Each employee has a right to work in an environment free from intimidation. This policy applies equally to all unlawful forms of harassment in the work place, including: sexual harassment and harassment or discrimination based on race, color, sex, age, religion, national origin, marital or veteran status, height, weight, disability, political affiliation, or other protected status.

Harassment may include: joking remarks; stories; nicknames; abusive conduct or speech; epithets; slurs; negative stereotyping; threatening, intimidating or hostile acts; and written or graphic materials that denigrate or show hostility or aversion toward an individual or group.

The City will not tolerate or condone harassment of its employees by their supervisors, co-workers, or third parties on City premises or at City functions over which the City has control. The City will not permit any situation where an employee's submission to or rejection of harassment is used as a basis for employment decisions, or where harassment has the purpose or effect of unreasonably interfering with an individual's work performance, creating an intimidating, hostile, or offensive work environment or otherwise adversely affecting an individual's employment opportunities.

Any violation of this policy may subject the violator to disciplinary action including immediate discharge, at the sole discretion of the City, as well as any civil or criminal action which may be initiated by the victim.

Sexual Harassment

All of the above provisions also apply to conduct or communication constituting sexual harassment. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when any of the following occur:

- Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of employment.
- Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting the person's employment.
- Such conduct or communication:
    - has the purpose or effect of unreasonably interfering with a person's work performance
    - has the purpose or effect of creating an intimidating, hostile or offensive work environment, or
    - otherwise adversely affects a person's employment opportunities.

Examples of sexual harassment include behaviors or actions of a sexual nature such as verbal kidding or abuse of a sexual nature, teasing or joking; foul or obscene language or gestures; display of foul or obscene printed or visual material; and physical contact such as suggestive patting, pinching, groping or rubbing against another's body, sexual advances or propositions, or requests for sexual favors.

Reporting potential violations

Any employee who believes that he or she has been harassed in violation of this policy or who has witnessed another employee who has been harassed in violation of this policy shall immediately report the conduct or communication to any supervisor, a Department Head or the City Administrator. If the employee does not feel he or she can report to these persons, the employee shall report the incident to any member of the City Council.

An employee is not required to make a determination of whether the conduct or communication is a violation of this policy. For that reason, an employee shall report any offensive conduct or communication which occurs while the employee is conducting City business or as a result of the employee's employment with the City, whether on or off City premises.

It is stressed that the employee may choose to report the conduct or communication to any of the above-named persons. An employee is under no obligation to report the conduct or communication to any person who is the subject of or perpetrator of the conduct or communication.

Supervisory personnel are expressly obligated to educate employees on this policy; manage staff in a way that proactively prevents harassment; and report any incidences of harassment to the City Administrator or the City Attorney if the City Administrator is the subject of the complaint. Failure to do so renders the supervisor complicit in the harassment and subject to corresponding disciplinary action related to harassment and dereliction of duty.

Investigations

All complaints and reports shall be referred immediately to the City Administrator for review, or to the City Council or City Attorney if the City Administrator is the subject of complaint.

A prompt and thorough investigation of the alleged harassment will be initiated, with concern for the principles of due process and fairness. Outside experts, consultants, or attorneys may be enlisted to assist with the investigation.

Every effort will be made to keep all complaints (and their details) as confidential as possible; however, it is understood that in the course of an investigation, some information may become known to others. A typical investigation includes one or more meetings with the person making the complaint, the accused, and any witness(es) to the alleged occurrence(s) of harassment.

If the complaint involves a direct supervisory relationship, the City may suspend the reporting relationship between the employee and the supervisor and designate another supervisor to whom the employee shall report during the period of investigation. During the investigation, the City may take other measures to limit contact between employees involved in the investigation to prevent retaliation and limit any potential for ongoing hostility.

Following completion of the investigation, if the report has merit, disciplinary action up to and including dismissal will be taken against the perpetrator to remedy the situation. It is the City's intent that remedies in no way disadvantage the victim of harassment.

Retaliation

There will be no retaliation against an employee for reporting harassment or for cooperating with the investigation of a complaint of harassment. Retaliatory action or conduct of any kind is strictly prohibited and shall be regarded as a separate and distinct violation of the City's policies and procedures, also subject to disciplinary action up to and including immediate discharge.

Any questions, concerns, or other inquiries regarding the conduct that is prohibited by this policy or the procedures contained herein shall be directed immediately to the City Administrator or City Attorney.

17.18 Prohibition Against Sexual Harassment

It is the policy of the City that its employees be free from sexual harassment in any form. Any employee who feels that he/she has been or is being subjected to sexual harassment, is urged to contact his/her immediate supervisor, or the City Administrator, immediately. Sexual harassment means unwelcomed sexual advances, offering employment, promotions or other benefits in exchange for sexual favors; making threatening reprisals for refusing sexual advances; visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons or posters, suggestive or obscene letters, notes or invitations; verbal conduct such as derogatory comments, epithets, slurs, sexual innuendo, sexual jokes, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual; physical conduct such as unwanted, suggestive or offensive touching, assault, impeding or blocking movement; requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

A. Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.
B. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment.
C. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creating an intimidating, hostile or offensive employment environment.

Employees who feel they have been discriminated against on the basis of sex, or sexually or in any other manner harassed, should immediately report such incidents without fear of reprisal. Employees who feel uncomfortable with reporting the incident to the supervisor or Department Head, may report it to the City Administrator. Confidentiality will be maintained to the extent permitted by the circumstances.

All complaints of sexual harassment will be investigated promptly and where necessary immediate appropriate action will be taken to stop and remedy any such conduct. Any employee who is

determined, after investigation, to have engaged in unlawful harassment in violation of this Article will be subject to discipline, up to and including discharge.

17.19 Drug-Free Workplace

The City is committed to providing a safe drug- and alcohol-free working environment. Substance abuse is a significant public health problem and the use of alcohol/drugs in the workplace jeopardizes safety, lowers productivity, and undermines public confidence.

As such, all City premises, including work sites and all City vehicles are declared to be drug/alcohol-free work places. City employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, selling, or using controlled substances and/or alcohol in the workplace.

Employees who are taking prescription medication that may affect their performance or impair their ability to drive and/or operate equipment/machinery shall notify their supervisor prior to beginning work. It is a violation of this policy to use prescription drugs illegally.

Please note that nothing in the Michigan Medical Marihuana Act requires an employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.

Employees found to be in violation of this policy will be subject to appropriate personnel/disciplinary action up to and including immediate discharge. The City reserves the right to require drug or alcohol testing at any time for safety sensitive positions and in the case of reasonable suspicion for other job categories.

Employees required to maintain a Commercial Driver's License as a condition of their employment are subject to much stricter state and federal provisions regarding Department of Transportation (DOT) random drug testing.

17.19 Resignations

Any employee in good standing intending to resign from City service shall give the City reasonable notice, usually two (2) weeks. In some instances, due to complexity of the employee's position or difficulty on the part of the City in finding a replacement a longer period may be reasonable.

Prior to leaving the employment of the city, an exit interview will be conducted to determine the reasons the employee is leaving the city, to provide an opportunity for the airing of unresolved grievances, and to solicit constructive feedback to improve the city. The exit interview form is attached to this manual as Appendix A.

17.20 Accident Reports

Any employee involved in any accident involving personal injury or property damage while in the service of the City, shall promptly report said accident and any property damage and physical injury sustained by said employee or others. An employee, within 48 hours, shall make out and accident report in writing on forms furnished by the city and shall turn in all available names and addresses of witnesses to the occurrence.

Article 18. **GRIEVANCE PROCEDURE**

18.01 Resolving Grievances

Should a dispute arise between the City and one or more employees as to whether the City has breached or violated any of the provisions of this Manual, an earnest effort shall be made to resolve such dispute promptly and the following procedure shall be adhered to:

A. Step 1. Any employee having a grievance shall first take up the matter with his/her immediate supervisor. If not settled it shall be reduced to writing and signed by the grievant within 10 days

of an alleged violation. The written form shall contain all the facts in detail; shall define the alleged violation of a specific article of this Manual; shall state the date of occurrence of the alleged violation; and shall state a correction or solution to the alleged regulation violation.

B. Step 2. The written grievance shall be discussed between the employee or his/her designated representative and the department head. The department head shall give his/her written response within 5 working days (excluding Saturdays, Sundays, and Holidays) of the receipt of the written grievance. Acceptance or rejection of the receipt of the department head's response will be promptly written on the grievance form by the employee and delivered to the City Administrator.
C. Step 3. In the event the grievance is not settled in Step 2, the Grievant shall submit grievance to the City Administrator within 5 working days. The City Administrator and his/her representative(s) and the employee and his/her representative(s) shall meet to discuss and attempt to resolve said grievance. This meeting shall be scheduled at a mutually agreeable time, which time shall not exceed, however, five (5) working days from the time the grievance form is filed with the City Administrator unless a longer time is mutually agreed upon. If the parties in this meeting are unable to resolve the grievance and reduce their agreement to writing, the matter may be submitted to the City Council.

All claims for back wages shall be limited to the amount of wage that the employee would otherwise have earned less, any unemployment compensation or compensation for personal services that he/she may have received, or could have received from any source during the period in question.

Article 19. **TRAINING AND PROMOTIONS**

19.01 In-Service Training

The City may authorize in-service training programs with pay, for employees to take schooling directly related to the job of the employee, the interests of the City, and improvement of job effectiveness.

19.02 Outside Training

An employee may be authorized to attend outside job-related training courses. In such cases, the City shall reimburse the employee for tuition and necessary supplies upon satisfactory completion of the course or training specified and approved in advance, provided that said tuition and supply allowance is not reimbursed or can be reimbursed from any other source outside the City. The employee shall be expected to arrange to attend such courses on his/her own time without additional compensation from the City.

19.03 Promotions

It is the policy of the City to fill vacancies whenever possible by promotion from within. It is sometimes necessary to employ persons from outside the City staff for positions that require special experiences or skills. Promotions are based on many factors, including previous performance and the ability to do the work. All applications will be given due consideration.

Article 20. **EMERGENCY AUTHORITY**

In the event a set of circumstances should arise such that the powers and authority of the City Administrator should be exercised when the City Administrator is unable to perform the necessary duties of his/her office, such powers may be exercised by a Temporary Acting City Administrator who shall be the person holding the following position (in order of descending priority) who is available and able to perform the duties of the office.

1. Acting City Administrator (see Charter Section 3.9)
2. Assistant City Administrator.
3. Police Chief
4. City Clerk.
5. The Department Head who has the longest period of service to the City as a Department Head.

The powers and authority of a Temporary Acting City Administrator shall continue until such time as the person of higher ranking authority is in fact available to perform the duties necessary to exercise the powers and authority of the City Administrator. For example; (a) An absent or disabled City clerk or a more senior Department Head may become available; (b) the Council may meet and appoint a new City Administrator or Acting City Administrator.

Within 24 hours of undertaking to act as a Temporary Acting City Administrator, the person shall give notice in the following order of priority: Mayor, Mayor Pro-Tem, Council Member having the longest period of service on the Council.

Article 21. **LONGEVITY**

21.01 Longevity
As of July 1, 2013 the City will no longer provide a Longevity Pay program to any employee.

Article 22. **FAMILY MEDICAL LEAVE ACT**

Notice to employees regarding the Family and Medical Leave Act of 1993. The City will comply with all applicable requirements of the Family and Medical Leave Act of 1993 ("FMLA").
The FMLA requires private employers with 50 or more employees and all public agencies, including state, local, and federal employers, and local education agencies (schools), to provide eligible employees up to 12 weeks of unpaid, job-protected leave in any 12-month period for certain family and medical reasons.

22.01 Employee Eligibility
The FMLA defines eligible employees as employees who: (1) have worked for the employer for at least 12 months; (2) have worked for the employer for at least 1250 hours in the previous 12 months.

22.02 Leave Entitlement
Eligible employees may take leave for the following reasons: (1) to care for a child upon birth or upon placement for adoption or foster care; (2) to care for a parent, spouse, or child with a serious health condition; or (3) when an employee is unable to work because of the employee's own serious health condition.

According to the FMLA, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves; (1) inpatient care (i.e., an overnight stay), including any period of incapacity or any subsequent treatment in connection with the inpatient care; or (2) "continuing treatment" by a health care provider. For further information on what is considered "continuing treatment," contact the City Administrator.

FMLA leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement. In addition, spouses employed by the same employer are jointly entitled to a combined leave of 12 workweeks of family leave for the birth or placement of a child for adoption of foster care, and to care for a parent who has a serious health condition.

Eligible employees may take FMLA leave immediately (for example, in blocks of time) or by reducing a work schedule in certain circumstances. If FMLA leave is to care for a child after the birth or placement for adoption or foster care, employees may take their FMLA leave intermittently or on a reduced work schedule only with the employer's permission. If the FMLA leave is because of the employee's serious illness or to care for a seriously ill family member, the employee may take the leave intermittently or on a reduced work schedule if it is medically necessary.

22.03 Notice and Certification

Employees who want to take FMLA leave ordinarily must provide the employer at least 30 days notice of the need to leave, if the leave is foreseeable. If the employee's need is not foreseeable, the employee should give as much notice as is practicable. When leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must try to schedule treatment in order to prevent disruptions of the employers operations.

In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification from a health care provider of the serious health condition. The employer also may require a second or third opinion (at the employer's expense), periodic recertification's of the serious health condition, and, when the leave is a result of the employee's own serious health condition, a fitness for duty report to return to work. The employer may deny leave to employees who do not provide proper advance leave notice or medical certification.

22.04 Benefits During FMLA Leave

Employees taking leave under FMLA are entitled to receive health benefits during the leave at the same level and terms of coverage as if they had been working throughout the leave. If applicable, arrangements will be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave. However, the employee must first use any accrued paid vacation, personal, and sick days during an unpaid FMLA leave for the employee's own serious health condition or for a seriously ill family member. In addition, the employee must use any accrued paid vacation or personal days (but not sick days) during FMLA leave to care for a newborn or newly placed child.

22.05 Job Restoration After FMLA Leave

The employer will reinstate an employee returning from FMLA leave to the same or equivalent position with equivalent pay benefits, and other employment terms and conditions. However, an employee on an FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

Certain highly compensated key employees also may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the employer's operation. A "key" employee is a salaried eligible employee who is among the highest paid ten percent of employees within 75 miles of the worksite. Employees will be notified of their status as a key employee, when applicable, after they request FMLA leave.

22.06 Other Provisions

The FMLA does not affect any federal or state law prohibiting discrimination or supersede and state or local law or collective bargaining agreement which provides greater family or medical leave rights.

Salaried executive, administrative, and professional employees of the employer who meet the Fair Labor Standards Act ("FLSA") criteria for exemption from minimum wage and overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for the FLSA's exemptions extends only to eligible employee' use of leave required by FMLA.

Appendix A: **EXIT INTERVIEWS**

It is the policy of the City of Lathrup Village to conduct exit interviews to determine and document the reasons employees leave the city, to provide an opportunity for the airing of unresolved grievances, and to solicit constructive feedback to improve the City. All exit interviews will be conducted by the City Administrator or his designee.

City Department Heads will refer separating employees to the City Administrator for an exit interview as soon as possible after the separation decision has been and communicated. The City Administrator will use the exit interview form (copy following) to cover the following points:

- Job duties and work load: understanding of the job, match with interests and abilities, quality of training.
- City policies and practices: working environment, opportunities for advancement, salary and benefits.
- Quality of supervision: fairness, supportiveness.
- Reasons for leaving.

If it is felt the information covered during the interview might become a point of contention in the future, the City Administrator should ask the employee to sign the exit interview form. The employee may be given a copy upon request.

EXIT INTERVIEW

JOB CONTENT

1. What factors contributed to you accepting a job with the city? Have your feelings changed?

2. Did you understand the job expectations when you were hired?

3. Did you receive sufficient training to meet those expectations? Did you know how or where to get information you needed to succeed in your job?

4. How would you rate your own contribution or performance on the job?

THE CITY AS A PLACE TO WORK

5. How would you rate the following aspects of your employment here?

	Excellent	Good	Fair	Poor	Comments
Opportunity For Advancement					
Physical Working Conditions					
Your Salary					
Vacation/Holiday					
Other City Benefits					
Feeling of Belonging					

6. If you were leading the city, what would you do differently?

7. What made your employment enjoyable?

8. What would make you interested in returning to work for the city?

QUALITY OF SUPERVISION

9. How would you rate you supervisor in the following areas?

	Excellent	Good	Fair	Poor	Comments
Demonstrates Fair & Equal Treatment					
Provides Appropriate Recognition					
Resolves Complaints/ Difficulties in a Timely Fashion					
Follows Policy & Procedures					
Informs Employee of Matters Relating to Work					
Encourages Feedback					
Is Knowledgeable in Own Job					
Expresses instructions Clearly					
Develops Cooperation					

10. If you came back to work for the city, would you work for the same supervisor?

11. Are you leaving for a similar Job?

12. How is your new job different from your old one? Are you staying in the same industry?

13. What part does salary play in your decision to leave?

14. What made you begin looking for another position, or, if appropriate, what made you listen to the offer to interview for another position?

15. What could the city have done to prevent you from leaving?

16. If you are going to another job, what does that job offer you that your job here did not?

ADDITIONAL COMMENTS

Are there any other comments that you would like to make about your employment with the City?

Appendix B: **PERSONNEL MANUAL OF EMPLOYMENT REGULATIONS**
Property of the City of Lathrup Village

Copy No. _____

I, _____ (employee), acknowledge receipt of this Manual and that I am responsible for knowing its contents and keeping it updated. I also understand that this Manual is City property that must be returned when I leave this organization.

I further understand that this Manual does not create a contract with the City for any purpose and that the provisions of this Manual may be modified or eliminated at any time.

Issued To: _____

Signed: _____

Date Received: _____

Appendix C: **AUTHORIZATION TO RELEASE INFORMATION**

I, _____ (employee), hereby authorize the City of Lathrup Village to conduct all background and personal information checks as outlined in the City's personnel manual and my conditional offer of employment.

I hereby release the City of Lathrup Village from any liability which may or could result from furnishing the information requested above or from any subsequent use of such information in determining my qualifications to hold the position which I am applying.

I further understand that this information will be kept confidential by the City Administrator and his/her designee.

Signed: _____

Date: _____

Appendix D: **ACKNOWLEDGMENT OF EMPLOYMENT AT-WILL**

I, _____ (employee), acknowledge that I am being employed in the capacity of _____ by the City of Lathrup Village and that this employment is at the will of the City in that I may be terminated at any time, for any reason, with or without notice, and with or without cause. I also recognize my right to terminate my position with the City at any time.

Signed: _____

Date: _____

Appendix E: **INFORMATION SYSTEMS POLICY ACKNOWLEDGMENT**

The purpose of this acknowledgment is to inform you of the City's Information systems Policy. Employers are liable under Federal Law for violations of copyright restrictions by their employees, and are also legally responsible for the proper use and distribution of the information stored on their computers.

The City has adopted this Information Systems Policy to inform you about your obligations as a City Information Systems Operator, and to let you know that the City views this policy very seriously. Your access to the City's Information Systems is a valuable opportunity, in terms of learning technical job skills, obtaining information, communicating with fellow employees and citizens, and being a more productive worker. Along with this opportunity, you have important legal responsibilities, which are outlined in the attached policy. The policy includes the following topics:

(17.10) Copyright Protected Software
(17.11) Network Data Use and Security
(17.12) Network Access Security
(17.13) Software Specification Policy
(17.14) Software Created by City Employees
(17.15) Email Policy
(17.16) Monitoring of Email
(17.17) Internet Policy

The City expects all employees to comply fully with this policy. Any employee found to be violating the Information Systems Policy will be subject to reprimand or termination, on the same basis which would apply to misuse or misappropriation of any other City property, or for violations of other City policies.

Jeff Mueller
City Administrator

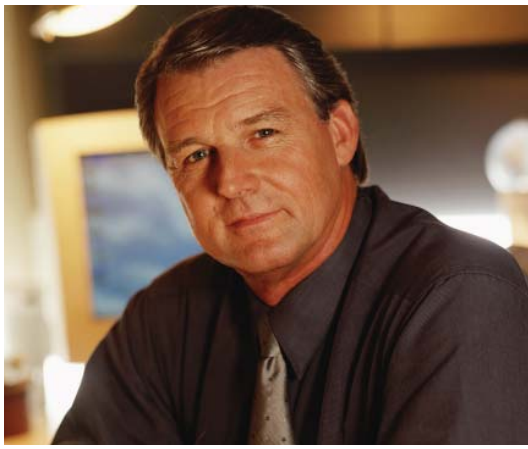
Acknowledgment: I hereby acknowledge that I have received a copy of the City Information Systems Policy, that I understand the policy, and that I will comply fully with it.

Date: _____Signed:_____

Ethics Handbook for Michigan Municipalities







integrity ➤ fair dealing ➤ responsibility ➤ accountability ➤ openness

michigan municipal league
Better Communities. Better Michigan.

➤➤➤

Thank you

The Michigan Association of Municipal Attorneys wishes to thank the Michigan Municipal League Foundation for their generous financial support of the Ethics Handbook project. The Foundation contribution has greatly assisted with the publication and distribution of the handbook, ensuring that it will be available to local governments and interested parties throughout Michigan.

Ethics Handbook For Michigan Municipalities

Presented by
The Ethics Roundtable
of the Michigan Association of Municipal Attorneys

A publication of



michigan municipal league
Better Communities. Better Michigan.

Printed May 2008
© Copyright 2008 Michigan Municipal League
No portion of this book may be reproduced by any means
without permission of the Michigan Municipal League.

Table of Contents

Dedication 1

Foreward 3

Preface 5

Chapter 1: The Importance of Ethics for a Local Government

"Ethics" and Why It Matters 9

Civility in Local Government: The Civil Society 10

Chapter 2: Things to Keep in Mind

Different Forms of Government;
Different Routes to Adopting Ethics Standards for Your Community 17

Including Ethics Provisions in Charters: Advice for Charter Commissions 19

Labor Considerations 22

Chapter 3: The Substance of a Local Government Ethics Ordinance

Definitions for an Ethics Ordinance 27

Fundamental Standards of Conduct for an Ethics Ordinance 33

Consequences for Violating the Ethics Ordinance 41

Enforcement and Administration of an Ethics Ordinance 46

Chapter 4: How to Proceed

Developing, Adopting, and Implementing an Ethics Ordinance: The Process 55

Appendices

Appendix A: The Contributors 57

Appendix B: Some Ethics-Related Michigan Statutes 59

Appendix C: Local Government Ethics Ordinances 61

Appendix D: An Ethics Bibliography 63

Appendix E: Professional Associations' Codes of Ethics 65

Dedication

This handbook is dedicated to the memory of William L. Steude, general counsel of the Michigan Municipal League from 1971 to 1997, and past chair of the Ethics Roundtable, a committee of the Michigan Association of Municipal Attorneys. Bill was a proponent of ethical conduct and civility in government at all levels, and this handbook was originally his idea. The essay on "Civility in Government" is his, and in it he considers the respect that is deserved by and owed to, both the public and its dedicated local government officials and staff. We have all benefited from Bill's belief in the necessity of the trustworthiness of government, and with this handbook we hope to advance that belief.

Foreword

The Michigan Municipal League, representing some 518 local governments, is proud to join the Michigan Association of Municipal Attorneys in presenting a comprehensive resource for local government officials interested in the topic of ethics as it applies to municipalities.

One of the hallmarks of municipal governance in Michigan is its strong tradition of ethical conduct in the provision of services for local communities. The actions of municipal elected and appointed officials adhere not only to a statutory framework, but also to professional codes of conduct, local provisions, local organizational culture and, perhaps most importantly, a strong sense of personal ethics borne of the civic pride that leads individuals to be municipal officials. The Michigan Municipal League has traditionally worked to articulate and support the tradition of ethical conduct in Michigan's municipalities. This handbook represents an important additional step. It is both a conceptual resource and a "how to" manual. It is comprehensive in that it addresses numerous facets of ethics. And, it documents the ways numerous municipalities have addressed ethics, in a formal sense, by adopting a local ethics ordinance.

One of the great attributes of municipal government in Michigan is that the government can be tailored to meet the needs of a particular community. The best way to address an issue in one community may be very different from a neighboring community—the topic of ethics included. Thus, this handbook does not seek to present a "model." Rather it discusses the concept of ethics as it applies to municipal government, highlights particular issues, and then presents how several communities have addressed those issues. It should be pointed out that for many municipalities it will be appropriate to adopt only selected provisions set forth in the handbook.

In making the choice to adopt an ordinance, a community should bear in mind that an ethics ordinance is a tool. While adopted with the intent of improving the government of the municipality, care has to be given to how this tool is used. That is, an ethics ordinance can be a shield—to shield the community from unethical conduct—or it can be used as a sword to unfairly attack municipal officials, and if so used, it can be a detriment to the community.

Ultimately, this handbook is a powerful resource for Michigan's municipal leaders to engage in community dialogue and deliberation to choose the best approach *locally* for maintaining high ethical standards in Michigan municipalities.

This handbook represents a great deal of devotion to this topic by a number of persons. Without their selfless contributions, it would not have been possible. In particular I would like to recognize and thank Daniel C. Matson, chair of the Ethics Roundtable whose guidance and persistence made the handbook a reality. Dennis A. Mazurek, senior counsel of Detroit's Law Department, who organized and analyzed the sample ordinance provisions, and Mary M. Grover, the editor of the handbook, who molded its disparate parts into a unified publication.

William C. Mathewson
General Counsel, Michigan Municipal League;
Secretary/Treasurer, Michigan Association of Municipal Attorneys

Preface

This handbook is offered as a guide for establishing ethical standards for the conduct of all persons in service to municipal governments in Michigan. A number of Michigan communities have adopted some form of statement about ethics which may appear in the local charter, in an ordinance, or in both. Other communities may be considering adopting some form of standards of conduct for their public officials. This publication is intended to provide assistance to municipal officials in their efforts to either create new ethics policies and procedures, or to update them in keeping with today's expectations regarding the conduct of elected officials, employees, and volunteers.

The Home Rule principle allows Michigan communities to tailor ethics standards to fit local needs and expectations. Each can adopt provisions that are appropriate for a particular community in order to promote public trust in public officials and in government. Elected and appointed officials, staff and volunteers may rely upon this stated framework within which they conduct the affairs of government.

The authors and reviewers of this handbook bring considerable experience to the effort as they have represented the interests of Michigan municipalities and have encountered a broad range of ethical issues and concerns that confront public officials. The publication is the outcome of many such experiences as identified by members of the Ethics Roundtable, a group formed by the Michigan Association of Municipal Attorneys. The Roundtable has focused on aiding local officials to understand and to resolve ethics problems within established legal and voluntary requirements.

With this reference, municipal officials may consider addressing a variety of areas of conduct that would be appropriate for their organizations. The reader may also examine a variety of options that are currently in use in a number of Michigan communities. These approaches are the result of extensive study and discussion, and they reflect local concerns and values.

It is strongly recommended that the municipal attorney be involved in each step of the process of developing, proposing, and adopting ethical standards. Numerous legal issues must be considered whenever local law of this nature is created, and particularly when enforcement is involved.

Ethical administration of government invites the citizen's confidence in, and respect for, government. Good governance is valued by the community. It is sustained by those who have dedicated themselves to public service, and it is reflected in the decisions made and the actions taken by that government. To that end, the Ethics Roundtable commends this handbook to all citizens of Michigan communities, and to those who serve them, in recognition of the need to promote, and to earn, the public trust.

I wish to acknowledge contributions to this work by members of the Ethics Roundtable of the Michigan Association of Municipal Attorneys, including the following: Dennis A. Mazurek, senior counsel of the City of Detroit Law Department, for his comprehensive research and analysis in authoring Chapter 3, the central chapter of the handbook. John J. Rae, former Midland city attorney, who brought erudite and insightful sharing of the meaning of ethics. Peter A. Letzmann, former Troy city attorney, and foremost seminar organizer and presenter to municipalities on many topics, always with ethical concerns in mind. Michael P. McGee, senior principal with Miller, Canfield, Paddock and Stone, PLC, who applies labor law considerations to the book. William C. Mathewson, general counsel, and Sue A. Jeffers, associate general counsel, of the Michigan Municipal League, who continue to field numerous inquiries regarding ethical issues from constituent municipalities. Dene Westbrook, Jeanette Westhead, and Breanne Bloomquist at the League for their design and production expertise. Mary M. Grover, of Traverse City, public sector facilitator, trainer and presenter of ethics programs on local, state, national and international levels, who served as editor. Many others have generously served as members of the Ethics Roundtable through its years of existence, and their meaningful participation in the ever-current ethics discussion has led to the completion of this handbook.

Daniel C. Matson, Chair
The Ethics Roundtable

Chapter 1: The Importance of Ethics for a Local Government

Essays

"Ethics" and Why It Matters 9

Civility in Local Government: The Civil Society 10

"Ethics" and Why it Matters

By John J. Rae

Why should a municipal government be concerned about ethics? At first blush this appears to be a question, the answer to which is so obvious, that it need not be asked. As is the case with so many things, however, things are, more often than not, more complicated than they appear to be.

Aside from the almost automatic response of many, who might say that ethics must mean some sort of standard of good behavior, there appears to be little agreement about what the word "ethics" really means. This has led, unfortunately, to the term becoming so loose in scope and meaning that it is in danger of becoming as floppy as words like *liberal*, or *conservative*, words which often convey whatever meaning the speaker or writer wants, but to the listener or the reader, the words may have a very different meaning.

In addition to the immediate barrier to understanding which this moveable meaning creates (or perpetuates), the standard of good behavior which is supposedly being followed is, by this confusion, in danger of becoming nothing more than a belief that one's personal opinion on the subject is no better or worse than the opinion of anyone else. The result is a kind of relativism around the word "ethics," which logically raises the question of whether there should really be any "ethics" standards in the first place.

A large part of the problem here is that the term "ethics" has a number of meanings assigned to it by any standard dictionary. For example, one reference includes all of the following:

1. the study of the general nature of morals and of the specific moral choices to be made by an individual in his relationship with others; i.e. the philosophy of morals or moral philosophy;
2. a set of moral principles or values;
3. the moral quality, fitness or propriety of a course of action; and
4. the rules and standards governing the conduct of a profession.

Also, the historical tension between the religious traditions in our pluralistic society, and the protections of individual rights under our governmental system, inevitably lead to even more disagreement over the subject of "ethics."

Given all of the foregoing, then why do we bother trying to establish any kind of rational system of ethics guidance for municipal government? The answer is that most people recognize civil society's need for something which will enable them to live together in a peaceful and productive way. This recognition is already reflected in our Constitution, public laws, statutes, ordinances and regulations. What is driving the renewed interest in codes of ethics, however, appears to be an ever-growing belief that these laws do not go far enough.

What a carefully crafted and defined "ethics" code or ordinance can do is to establish behavioral standards of integrity, fair dealing, responsibility, accountability, and disinterested conduct which are not specifically covered by existing laws, but which are an essential part of the fiduciary duty (the highest standard of conduct) which is almost universally recognized in this country as being owed to the public by its public servants and officials.

Civility in Local Government: The Civil Society

By William L. Steude

While the subject of civility in government is a different concept than that of ethics in government, there can be little doubt that there is a close relationship between the two. It is hard to imagine that true ethical behavior would not be characterized by civil behavior, even though the opposite might not always be the case. The authors of this publication believe that these concepts complement one another, and for this reason have decided to include this chapter. We can find no better explanation and exposition of the subject than was set forth by our mentor, teacher and friend, Bill Steude, in an article entitled, "Civility in Local Government: The Civil Society," which appeared in the April 2001 issue of the Michigan Municipal Review*. The article follows, in its entirety. – Editor*

The decline in civil conduct and discourse, public and private, needs no documentation. But a search over the Internet under "civility" produces much that supports the case for its sharp decline and a yearning for its restoration. Universities have commissions to promote civility on campuses. Churches offer civility pledges to candidates for public office. Congress even had a civility camp where members and their families gathered to improve the courtesy level in the U.S. House of Representatives. The City of Bloomington, Indiana, established a task force for a safe and civil city, promoting discussion of what it means to be a civil participant. Several state jurisdictions have promulgated civil codes for practicing attorneys.

President George W. Bush, in his 13-minute inaugural address, referred to "civility" four times. He said, "Civility is not a tactic or a sentiment. It is the determined choice of trust over cynicism, of community over chaos."

To be civil, in ordinary understanding, means to be polite, respectful, decent, tolerant, graceful in language and gesture, tone, exercising restraint toward others, cooling the hot passions of partisanship, adversarial and personalized argument, with magnanimity toward others.

The decline in civility in public affairs reflects the overall decline in American civility – in professional sports, the media, talk shows, politics, academics, interpersonal communication, even road rage. The loss of civility in our national life betrays more fundamental trends in our society and culture, argues Harvard Law Professor Stephen L. Carter in his recent book on civility.[1] He traces the historic, cultural and religious roots of civility that have withered or rotted and now account for the serious lapse in civil social behavior.

Civility probably cannot be codified into standards of behavior enforceable by penalty. In fact, civility codes for public officials may even set a lower threshold, and be an incentive for lowering, rather than raising standards, by setting what you can get away with, not how you should be.

There is no constitutional duty of a public official to be civil. But note Article I, Section 17 of the Michigan Constitution, in the same section in which the due process clause appears, which provides:

> "the right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed."

This "fair and just treatment clause" does not speak to civility, but civility can help set the tone for demonstrating fair and just treatment in hearings and investigations.[2]

However impossible it may be to mandate, civility might be inspired by conscientious attention to the trappings of a meeting of a public body, by the physical setting, by the rules of procedure and the conscious example of members of the public body themselves.

The trappings of a meeting

Opening ceremonies, such as a prayer by a member of the clergy in the community, the pledge of allegiance to the flag led by Girl or Boy Scouts or by veterans, and a formal roll call of the members can set the level of respect with which such formality is usually accorded.

Remember, a city commission or council is an elected legislative body whose members take exactly the same constitutional oath of office taken by the governor and by every other elected official in the state. If members and the public have the respect for one another and from one another that reflects that status, a certain formal level of discourse and decorum might maintain a higher level of civility.

The physical setting for the meeting, the furnishings and seating arrangements, and even the council's attire influence and can elevate expectations about public deportment at council meetings. A card table or fold up table with folding chairs for the council members seems to belittle the office and may invite an informality that can slide into uncivil discourse or worse.

Money spent on decent furnishings and the setting is well worth the cost. It reflects the level of respect accorded by the community toward its self-government and its elected representatives.

Rules of procedure

No deliberative body can efficiently conduct its business without rules. A governing body has a relatively free hand in designing its own rules of procedure as long as constitutional (First Amendment), statutory (Open Meetings Act), and local charter requirements are not violated. Although most municipal governments which have rules seem to have automatically adopted *Robert's Rules*, *Robert's* does not necessarily have to be the primary source for local rules of procedure.

Robert's Rules of Order are complicated, highly detailed, and are intended primarily for large legislative bodies or for meetings of large associations whose membership may number hundreds. Its procedures may be unnecessarily cumbersome for small governing bodies: the five-to-seven-member councils of most Michigan municipalities.[3]

For example, *Robert's* requires a second to support an ordinary motion and put it into debate, but a *small* body which meets weekly, fortnightly or monthly might opt not to require a second at all, but could proceed to debate directly if the rules permit it.

The complex details of parliamentary procedure may also confuse and frustrate elected officials and the public, particularly if the rules are seen as being manipulated for or against one side of an issue or the other, or are seen as being ignored, misunderstood or wrongly invoked. Such a use of the rules of procedure, or the perception of their *mis*use, will counter the very purpose of rules of procedure – to protect the minority and promote orderly deliberations and decisions, and will further undermine public confidence in government.

Truth in government depends on a set of procedural rules that are followed consistently, give equal opportunity for every member of the body to participate in making the decision, make for the most efficient procedure possible, and result in a decision by a majority of the body on the merits of the issue, not on manipulation of procedures.

A governing body ordinarily has the discretion to adopt its own simplified set of procedural rules, unless *Robert's Rules* or some other authority has been mandated by the municipal charter.[4] Such rules do not automatically command civility, but a good set of rules may minimize the perception that the rules are drawn, or bent, to control an outcome. If parliamentary maneuvering is seen as manipulating the proceedings, a frustrated council member or minority, or the attending public, can erupt in anger.

Civility and decorum is strained by the gadfly, the activist and the protester, who tend to distrust government and those in government. If they engage in abusive and baseless charges, or monopolize a meeting, the presiding official can rapidly lose the ability to maintain order, unless the council backs a zero tolerance policy toward such disruptive behavior.

Personal attacks generate counter attacks and lead to verbal duels and free-for-alls difficult to break, leaving civility and decorum in the dust. The presiding officer in that event may have no choice except to declare a brief recess so tempers and rhetoric may cool.

A rule against personal attacks, applicable equally to members of the body and the public, can help keep a discussion "problem centered" and not "person centered." A procedure to enforce a zero tolerance policy in progressive steps can be effectuated,

1. By reminding the speaker of the rule if a violation occurs.
2. If the misconduct persists, by calling the speaker to order, citing the rule—a formal warning which may cause the speaker to lose the floor, if the rule so provides (although it may also authorize restoring the floor to the speaker if the abuse ends and the body formally permits the speaker to resume); or
3. If the abuse still persists after warnings, the chair "names the offender"—a last resort step which has the effect of preferring charges. The presiding officer states what the offender has done. The body then decides how to penalize the member, if the offender is a member of the governing body. The rule could specify a range of penalties—e.g. reprimand, formal censure, or municipal civil infraction. If the offender is a member of the public, the presiding officer may order the offender to be escorted from the meeting room.[5]

A rule limiting the length of council meetings and speeches by elected officials and the public will contribute to keeping the deliberations on point. No good government is likely to occur in the late night hours of a meeting when the limits of patience strain the limits of civility.

Procedural rules that permit and promote flexible opportunities for public input may diffuse public frustration at being foreclosed from opportune comment and encourage constructive debate. For example,

- Schedule public comment time at the beginning of the meeting (or of a work session), rather than at the end of the meeting.
- Provide a short time for public comment at the first reading of an ordinance, rather than, or in addition to, at the second reading; (preliminary public comment may surface overlooked problems early and minimize any perception at the second reading that the work has already been done and gone too far to be altered and the issue already decided).
- Hold regular meetings explicitly for public participation separate from or in conjunction with and preceding the regular council meeting.

Titles and debate

How members of a governing body address one another and how the public is conditioned to address the council can promote the level of civility if formalities are observed. Using the "first name" may be appropriate in a casual street encounter or on the phone with a friend or neighbor who is a colleague on the council or a constituent, but it is not appropriate in a formal session of the governing body when addressing one another.

Titles may be a source of sensitivity to gender biased titles.

"Commissioner" when the legislative body is a commission is an easy gender-free title. "councilman" requires its counterpart, "councilwoman," but "councilmember" fits either, and "councilor" is a shorter alternative. "Trustee" will work for general law villages. "Madam" or "mister mayor," or just plain "mayor" works for cities. "Madam" or "mister president," or just plain "president" works for a village presiding officer.

If the title is not in the municipal charter, the rules of procedure can establish the titles, how to address one another, and the practice that members of the public should be requested to follow suit. For example, "Council members shall be addressed as "councilor."

Remember, a local government council is not only a local elected legislative body with chartered status. A council acquires a quasi-judicial character when it sits as a zoning board of appeals or other appellate hearing body. The decorum should reflect the quasi-judicial duty to be, and seem, judicious and dignified.

Judge Learned Hand was right: "(This) much I *think* I do know—that a society so driven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that a society which evades its responsibility by thrusting on the courts the nurture of this spirit, that spirit in the end will perish." The same might be said of civility.

---

1. Stephen L. Carter, *Civility: Manners, Morals and the Etiquette of Democracy*, 1998, Basic Books.
2. Violation of fair and just treatment in a legislative hearing was the basis for a $7.6 million judgment against the Detroit Board of Education in an unpublished opinion of the Michigan Court of Appeals in *Jo-Dan Ltd. v. Detroit Board of Education*, No. 201406, July 14, 2000.
3. A Michigan Municipal League survey of councils disclosed 80 with 5 members; 2 with 6; 420 with 7; 11 with 8; 15 with 9; 3 with 10; and 2 with 11 members. Of 533 councils, 502, or 94%, had 7 or fewer members.
4. See *Suggested Rules of Procedure for Small Local Government Boards*, A. Fleming Bell II, Institute of Government, 2nd edition, 1998, presented to the IMLA 65th Annual Conference, 2000.
5. See David M. Grubb, "Maintaining Civility at Council Meetings," New Jersey Municipalities, March 1995, pp. 24, 47-48 for a good discussion of this. See also Webster's New World *Robert's Rules of Order*, *Simplified and Applied,* 1999, pp. 155-156.

Chapter 2: Things to Keep in Mind

Essays

Different Forms of Government; Different Routes to Adopting Ethics Standards for Your Community 17

Including Ethics Provisions in Charters: Advice for Charter Commissions 19

Labor Considerations 22

Different Forms of Local Government; Different Routes to Adopting Ethics Standards for Your Community

By William C. Mathewson

For most people, using this handbook will be straight forward. Michigan municipal elected and appointed officials who are giving consideration to adopting ethics standards for their community can review the handbook to see how others have addressed this issue. Finding the preferred approach from the materials presented, an official can offer a route for adoption of ethics standards in his or her community. However, to enhance the handbook as a resource, especially for persons new to municipal government within Michigan or from outside the state, it may be helpful to pause for a moment to review the Michigan local government structure in which the adoption of ethics standards fits, once the decision has been made locally to do so.

This handbook, which is a collection of essays, makes reference to different legal routes for the incorporation of ethics standards in the governance of a Michigan municipality. Each is accurate but it is helpful to understand how each fits within the larger picture.

There are several forms of local government within Michigan. In addition to Michigan's eighty-three counties, there are home rule cities (HRC), home rule villages (HRV), general law villages (GLV), charter townships (CT) and general law townships (GLT). Michigan cities and villages maintain a strong tradition of home rule. However, with ethics as with other governmental concerns, the state can prescribe what will be the law on a particular subject matter so long as the state statute is consistent with the state constitution. Some state laws relate to local ethics provisions. Two examples are labor law and campaign finance.

But to date, the state Legislature has not chosen to enact a comprehensive statute that would control the way local units of government would enforce ethical conduct within their jurisdictions. This may not always be the case, as it has periodically been discussed, typically within the context of addressing ethics with respect to all governmental jurisdictions within the state, including state government. Thus, at present, local units of government have discretion in choosing the best approach to take to address ethical conduct within their unit of government.

For cities and villages in Michigan, this means that they may proceed in one of two ways. They can adopt an ethics provision in their city or village charter (the local equivalent of a constitution) coupled with the subsequent adoption of a local ordinance (the local equivalent of a statute) to carry out the intent of the charter provision. They can also adopt an ethics ordinance, without direct mention of the topic in the charter, under the authority granted in the Home Rule City Act, Home Rule Village Act or General Law Village Act to adopt ordinances to carry out the general grant of authority to these units of local government. If this were done, however, some sanction provisions might not be enforceable. (Perhaps a third way would be local guidelines, but they would not have the force of law and would not be legally enforceable.)

The essay by Bill Steude that follows this one discusses in some detail ethics provisions in the context of a municipal charter commission. This route is applicable to a city or home rule village that is being incorporated for the first time and thus has a charter commission to write its initial charter. Or, more likely, this route is one that would be taken by an existing city or home rule village that has chosen to convene a charter commission to review and offer new or revised sections of its existing charter for presentation to the electorate—which could include a provision regarding ethics.

Putting an ethics provision in the city's or village's local "constitution" (charter) could also take the form of a charter amendment. An amendment to the city's or village's existing charter could be offered to the citizens for their approval without convening a charter revision commission. An ethics amendment could stand alone or be one of a few amendments placed on the ballot for the electorate to consider. There are thus two ways to change an existing city or village charter: in cities or home rule villages

through the convening of a charter commission and presenting the proposed revised charter to the voters; or in cities and all villages by placing selected amendments on the ballot.

While a city or village charter can speak to or even require, addressing ethics, it need not do so. A city or village could adopt a binding set of ethics provisions in the form of an ordinance without the specific involvement of the charter. The majority of this handbook is devoted to setting forth samples and discussion of ethics provisions in ordinance form. This is appropriate because regardless of the approach taken in a charter, it is presumed that the implementation of ethical conduct/standards will be in the form of an ordinance. In fact, it would be impractical to put in a charter (again, the local equivalent of a constitution) the level of detail that is typical in an ordinance that addresses ethics.

With respect to cities and villages, a logical next question is why involve the charter of a city or village if a legally enforceable ethics ordinance can be adopted on its own, so to speak. There are various responses and ultimately the individual community will need to decide what the best approach is. That having been said, one reason is that some sanction provisions in an ordinance, such as removal from office, would not be enforceable if not authorized in the charter. Another reason for a charter provision is that it could be drafted to *mandate* that there be an ethics ordinance for the city or village. While it is beyond the scope of this publication to discuss the degree to which it is appropriate to require the legislative body (council or commission) to enact such an ordinance, if the citizens feel strongly enough about the topic of ethics they can require that the city or village adopt and enforce standards.

But whether a charter requires adoption of an ethics ordinance or speaks more generally about the topic, making reference in the charter is a clear expression of the intent of the electorate and should serve to guide the elected and appointed officials. Also, as a practical matter, a charter provision once adopted by the electorate will stand until changed by that electorate, unless the charter provision is nullified by state or federal law.

Conversely, care should be taken in putting an ethics (or any) provision in a charter. For instance, if the issue addressed is too topical, it may lose importance over time and the city or village will be saddled with a provision in its charter that is obsolete. The more relevant danger, however, is that the charter provision will be too detailed or too inflexible, thus restricting the appropriate implementation of the intent of the provision through the adoption, and if needed, subsequent revision of an ordinance. Again, further discussion of this aspect is beyond the scope of this particular essay. But suffice to say, care should be taken in drafting and adopting an ethics provision in a charter (or for that matter in ordinance form)…if for no other reason, as even with the best of intentions, such provisions may be subject to misuse, to unfairly attack a local official (sword) rather than protect (shield) the community.[1]

Each of the sample ordinances presented in this handbook happen to be from cities. Other local units of government in Michigan could adopt similar provisions. In the case of villages, under the Home Rule Village or General Law Village Acts, the considerations for doing so are equivalent to cities. With respect to general law villages' charter authority[2] while their basic governing document is a state statute (the GLV Act) it is deemed to be their charter. The Act does not speak to ethics provisions but general law villages have the authority to amend their charters (via amendment but not revision) and to adopt local ordinances, including provisions pertaining to ethics.

Charter townships and general law townships do not have home rule charters, but rather are respectively governed by specific state statutes augmented by somewhat limited authority to adopt local ordinances. Ethics ordinances could be adopted, with the above noted limitation regarding sanctions.

	HRC	HRV	GLV	CT	GLT
Charter Revision	X	X			
Charter Amendment	X	X	X		
Ordinance	X	X	X	X	X
Guidelines	X	X	X	X	X

In summary, then, local government officials who seek to address the topic of ethics within their local governments need to be cognizant of the fact that there are different routes that can be taken. For cities and villages, their respective charter may or may not address the topic, in the initial charter or later by revision (HRC, HRV) or amendment (HRC, HRV, GLV), but to the extent that enforceable specifics are desired they will be in the form of a city or village ordinance. And in the case of local governments without charters, ethics ordinances may be adopted to the extent of their respective ordinance adoption authority under state law. Finally, the local approach presumes that the state does not in the future seek to preempt local authority and impose ethics standards on government officials including those at the local level.

For a complete discussion of forms of local government, a good source of information is chapter one of *Local Government Law and Practice in Michigan*, published by the Michigan Municipal League and the Michigan Association of Municipal Attorneys. This chapter, by Stratton S. Brown and Cynthia B. Faulhaber, outlines each of the forms of local government and the authority that eac has. Also, chapter seventeen, by Daniel C. Matson, sets forth the process of charter amendment and revision. Additional material regarding charter revision and amendment and other powers of cities and villages is available through the Municipal League's library. Information with respect to Michigan's townships is available from the Michigan Townships Association. Practical expertise on charter revision and amendment is available from municipal attorneys who specialize in that area of the law. Finally, the city, village, or township attorney for each jurisdiction is an essential resource when consideration is given to adopting standards for the local government to govern ethical conduct by its elected and appointed officials.

---

1. See the following essay by Bill Steude, "Including Ethics Provisions in Charters: Advice for Charter Commissions"
2. There are 211 general law villages; new village incorporations must be as home rule villages.

Including Ethics Provisions in Local Government Charters: Advice for Charter Commissions

By William L. Steude

[Editor's note: In this essay the author primarily addresses the incorporation of an ethics provision through the charter revision process that applies to Home Rule cities and villages. See the preceding essay, "Different Forms of Local Government; Different Routes to Adopting Ethics Standards for Your Community."]

Revelations in the media about the conduct of some public officials have raised the consciousness of local voters and taxpayers about appropriate standards of conduct for government officials. In response, some local governments have voluntarily adopted ethics codes that focus on various aspects of the conduct of those entrusted with the public's business. In 1998 the Michigan Law Revision Commission published a report[1] calling for adoption of legislation that would provide an ethics code with uniform standards applicable to all public officials in local governments statewide. Charter commissions, authorized to draft or to revise the charter of a local government, often wonder *whether* to include ethics provisions, and *how far to go* in mandating adoption of an ethics code or ethical conduct.

Michigan law

The Home Rule Acts[2] neither mandate nor prohibit including a provision regarding ethical conduct or a code of ethics, so a charter commission could choose not to include ethics. In fact, most Home Rule charters in Michigan address ethics indirectly, or selectively, or not at all.

A Home Rule local government can enact an ethics ordinance without a specific charter provision authorizing it to do so. A broad powers provision in the charter could authorize the adoption of a comprehensive ethics code, as the Home Rule City Act permits a charter to provide,

> . . . for any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state.[3]

General approaches and alternatives

A charter is not an ordinance; rather, it is the basic local law by which the local government is to be governed for a period that may be as long as forty or fifty years. The job of a charter commission is to establish a prescriptive legislative framework for the community, a document that isn't caught up in issues that may be currently of public concern. A charter commission *can* include a detailed system of ethical standards and enforcement procedures in the charter. However, this approach will be time consuming, and it carries some risk of making the charter outdated if some of the details are nullified by subsequent preemptive state legislation. In general, charter commissions are advised to *avoid excessive detail in the charter*, and leave the task of developing the details, by ordinance and policy, to the local governing body.

One approach would be for the charter to provide an alternative to inaction by the governing body by authorizing citizen initiatives and referenda. By this means, local voters could initiate an ethics ordinance by petition, or originate or reject local ethics legislation through the ballot process.[4] The charter may also be amended by the legislative body or by initiative of the voters, to address ethics requirements.[5]

If the commission chooses to include an ethics provision in the proposed charter, it has a number of options to consider.

1. It can *authorize* the adoption of an ethics ordinance by the governing body, which then could enact a detailed code of ethics.
2. It can *mandate* that an ethics ordinance be adopted within a specific period of time after the charter is adopted.[6]

   A charter commission could also:

3. include in the charter a list of general principles or standards of conduct, without going into specific detail. For example, the list could refer to general standards of accountability, impartiality, integrity, confidentiality, conflicts of interest, or public trust. An ordinance could subsequently define these standards in greater detail, and provide procedures for enforcement.
4. take a traditional approach and address selective aspects of ethical conduct in the charter, focusing on particular problems that may have triggered community concerns, such as nepotism (the public employment of relatives), or specific areas of conflicts of interest, and require timely disclosure.[7]
5. specifically authorize or require in the charter the governing body to adopt a comprehensive ordinance with specific provisions governing the receipt of gifts, disclosure of conflicts of interest, moonlighting (i.e., a local government employee having a second job that might create a conflict of interest with the employee's public employment), pre-employment and post-employment limitations, and restrictions regarding nepotism, political activity, and representation before local government bodies.
6. have the charter authorize or require the establishment of an enforcement body, such as an ethics commission or board,

with responsibility to maintain and enforce the ethical standards of the charter and ordinances. Such a board or commission could assist local officials in determining the appropriate course of action when they are faced with uncertainty or conflict between ethical obligations. It could support public officials and employees in situations of unwarranted charges or criticism by adopting administrative rules, issuing advisory opinions, or recommending amendments to an ordinance or charter. It could also sanction unfounded complaints.

7. include a provision to require the governing body, and each local government board and commission established by charter, ordinance or law, to adopt standards of conduct for their respective members. The standards of conduct could be made subject to periodic review and approval by the governing body, or by the ethics board or commission if one is established.

8. include a provision to require that ethics education be included in orientation programs for newly elected officials, and in the training and continuing education of public employees.

Finally, the Michigan Municipal League maintains a charter database that is an excellent resource with examples of some of the approaches charter commissions have taken in recent years, to improve the ethical environment in the local government, and by extension, in the community.

---

1. *Final Report to the Michigan Law Revision Commission on the Proposed Government Ethics Act of 1999*, Michael A. Lawrence, November 2, 1998; published in the MLRC 33rd Annual Report, 1998, p. 13119.

2. The Home Rule City Act 279 of 1909, MCL 117.1 et seq.; the Home Rule Village Act 278 of 1909, MCL 78.1 et seq.

3. MCL 117.4j.

4. State law would remain applicable to local officials and local governments. It governs conflicts of interest in public contracts, campaign finance, lobbying, the expenditure of public funds, codes of professional conduct governing the city manager, city attorney, public accountants, licensed engineers and other occupations, personnel policies and collective bargaining agreements affecting public employees.

5. See MCL 117.21, amendment by initiative for cities; and MCL 78.17, amendment by initiative for Home Rule villages.

6. One charter commission mandated enactment of a comprehensive ordinance within six months of the adoption of the charter. It was difficult to meet this deadline, and a longer period should be considered. A better approach is found in the Charter of the City of Jackson, Section 9.13: "Within two years after the effective date of this charter, the council shall adopt by ordinance a code of ethics by which all persons in the municipal service shall abide, whether compensated or voluntary." The Charter was adopted on November 4, 1997; the Ethics Ordinance was adopted November 16, 1999.

7. For example, Section 2-106 of the 1997 Detroit City Charter provides, "The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance, consistent with state law. . . . The ordinance shall provide for the reasonable disclosure of substantial financial interests held by any elective officer, appointee, or employee who regularly exercises significant authority over the solicitation, negotiation, approval, amendment, performance or renewal of city contracts, and in real property which is the subject of a governmental decision by the city or any agency of the city. The ordinance shall prohibit actions by elective officers, appointees, or employees which create the appearance of impropriety."

Labor Considerations

By Michael P. McGee

Although a municipal government may have authority to adopt an ethics policy or ordinance, the government as a public employer also may have an affirmative obligation to negotiate over such a policy or ordinance if the public employer is unionized. Specifically, if the policy or ordinance has an impact on or concerns the union members' wages, hours, or other employment conditions ("mandatory subjects of bargaining"), the public employer must bargain with the union before the policy or ordinance may be adopted.

In the seminal case of *Detroit Police Officers Association v City of Detroit*, 391 Mich 44 (1974), the city adopted a residency ordinance after reaching impasse in contract negotiations with the union. The union filed an unfair labor practice charge, and the case proceeded to the Michigan Supreme Court which held that just because an employer may have a legal right to take such action, it does not mean it may do so in derogation of its obligation under the Public Employment Relations Act ("PERA"):

"The enactment of an ordinance, however, despite its validity and compelling purpose, cannot remove the duty to bargain under PERA if the subject of the ordinance concerns the "wages, hours or other terms and conditions of employment" of public employees. If the residency ordinance were to be read to remove a mandatory subject of bargaining from the scope of the collective bargaining negotiations, the ordinance would be in direct conflict with state law and consequently invalid. Const. 1963, art.7, §22. . . . Therefore, if as we will consider below, residency is a mandatory subject of bargaining, a city ordinance cannot foreclose collective bargaining on the subject." *Id.*

The Court concluded that a residency requirement is a mandatory subject of bargaining, but found that the city did not engage in an unfair labor practice because it did not adopt the ordinance until after it had bargained to impasse in good faith. The Court noted that "[i]n future negotiations, however, the city will again be required to bargain in good faith on the residency requirement if it is proposed as a bargaining issue by the [union]." *Id.*

Both the Michigan Employment Relations Commission (MERC) and subsequent appellate decisions have resulted in similar holdings circumstances other than residency. For instance, in *Pontiac Police Officers Association v City of Pontiac*, 397 Mich 674 (1976), the city refused to bargain over a union proposal regarding a grievance procedure for disciplined police officers. The city argued that because the city charter provided for a specific means by which discipline was to be imposed upon the officers, the charter provision controlled and there was nothing to bargain over. MERC disagreed, holding that the city committed an unfair labor practice by refusing to bargain because the grievance procedure was a mandatory subject of bargaining. On appeal, the Michigan Supreme Court affirmed MERC's ruling. See also *Local 1383, International Association of Firefighters, AFL-CIO v City of Warren*, 411 Mich 642 (1981) (a collective bargaining provision negotiated under PERA supersedes both a City Charter and the Michigan Constitution); *Senior Accountants, Analysts and Appraisers Association, UAW v City of Detroit*, 218 Mich App 263 (1996) (city cannot unilaterally implement pension provisions for union members without collective bargaining; the city could, however, through a City Charter Revision Commission, submit proposed changes to the electorate prior to collective bargaining as long the city did not implement or enforce the voter-approved changes until the employer satisfied its PERA collective bargaining obligations).

Neither the courts nor MERC have yet addressed the question of whether ethics regulation is a "mandatory subject of bargaining" under PERA. Ethics regulation typically does not implicate wages or hours, and thus the unanswered question is whether ethics regulation falls within the scope of "other terms and conditions of employment."

This will depend on the facts and circumstances of the particular regulatory scheme. It may be, for example, that the *standards* announced by an ethics policy (e.g., disclosure of conflicts of interest, prohibitions for receiving gifts, etc.) may be imposed in the exercise of normal management rights. *Consequences* for breaching the standards, on the other hand, to the extent they affect discipline or punishment, may very well fall within the scope of mandatory bargaining under *Detroit Police Officers Association*, *supra*, and its progeny.

Accordingly, before a municipal employer adopts or implements an ordinance or any type of ethics policy or regulation that may affect its unionized employees, or refuses to bargain with a union based on a conflicting governmental policy, the employer should first consult with legal counsel to evaluate compliance with applicable labor law.

Chapter 3: The Substance of a Local Government Ethics Ordinance

Essays

Definitions for an Ethics Ordinance 27

Fundamental Standards of Conduct for an Ethics Ordinance.....33

Consequences for Violating the Ethics Ordinance 41

Enforcement and Administration of an Ethics Ordinance 46

Definitions for an Ethics Ordinance

By Dennis A. Mazurek

Initial drafting considerations

An ethics ordinance should include definitions of some of the terms that will be used in its provisions. Many of these words will have a definition that is specific to the ordinance, rather than a more commonly understood meaning.

Charter requirements

Before drafting definitions, it must first be determined whether the local government charter requires that an ethics ordinance be organized around a central directive, and whether it must include specific definitions.[1] For example, the Detroit ethics ordinance was required to define the term "private gain," and it is organized around the central theme of prohibiting the use of public office for private gain.

Jurisdiction and scope

As with any ordinance, the drafters must determine the persons to be regulated by the ethics ordinance, and the scope of the regulation. The definitions will establish the persons and relationships that are intended to be regulated. The jurisdiction of an ethics ordinance could be extended to,

- elected and appointed officials,
- full-time and part-time employees,
- paid and unpaid members of boards and commissions,
- people who provide services under a personal services contract, and
- the spouses or domestic partners, children, and other relatives of any or all of the above.

The scope of the ordinance will also be reflected in the definitions. For example, the definitions could establish that the ordinance will regulate,

- certain confidential information,
- decisions, and
- ownership interests.

Universal and comprehensive

It is important that the definitions be universal and comprehensive, and in as clear language as possible. Universality means the definition could be applied to most, if not all, Michigan municipalities. Comprehensive means complete definitions that have a tight interrelationship to one another.

Examples of definitions

Although there are no "definitive" definitions, the following definitions would be applicable in most local governments. They are both universal and comprehensive, and the list itself is comprehensive, as well.[2]

Agency means any department, office, multi-member body, or other organization of the local government.

Appointee means one who holds either a compensated or an uncompensated position, including an individual who is appointed by the mayor, the legislative body, other elected officials, or a department, division or commission head.

Basic living expenses means shelter, utilities, and all other costs directly related to the maintenance of the common household of the common residence of the [spouse or] domestic partners and any other cost, such as medical care, where some or all of the cost is paid as a benefit because a person is another person's [spouse or] domestic partner.

City means the city of _____. [**Alternatively, village, township, or county** means the local government of _____.]

Clerk means the clerk of the local government of _____.

City council means the legislative body of the city of _____. [Alternatively, commission or board means the legislative body of the jurisdiction of _____.]

Commercial gain means the use by a public servant of any local government resource including, but not limited to, the local government's time, equipment, facilities, supplies or staff, which results or is intended to result in unauthorized income or other benefit to the public servant.

Confidential information means information that has been obtained by a public servant in the course of acting as a public servant, that is not available to members of the public pursuant to the Michigan Freedom of Information Act, being MCL 15.231 *et seq*, or pursuant to other law, regulation, policy or procedure recognized by law, and that the public servant is unauthorized to disclose, including:

1. any written information, whether in document or in electronic form, which could be exempted from disclosure pursuant to state law or to other pertinent law, regulation, policy or procedure recognized by law, unless the public servant disclosing the information is permitted by such authority to make disclosure; and
2. any non-written information which, if written, could be exempted from disclosure pursuant to state law or to other pertinent law, regulation, policy or procedure recognized by law, unless the public servant disclosing the information is permitted by such authority to make disclosure; and
3. information which was obtained in the course of or by means of a written or electronic record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing the information is authorized by state law to make disclosure, or unless the public servant disclosing the information has been properly authorized to make disclosure pursuant to an applicable law, regulation, policy or procedure, except that when such information is available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

Decision means:

1. a determination, action, vote, or other disposition upon a motion, proposal, recommendation, resolution, or ordinance by members of the governing body, or of a governing body of a local government agency; or
2. a determination, action or other disposition taken by an elected official with the authority to do so, or a local government agency in the performance of its public duties.

Domestic partner[3] means one of two adults who

1. have a common residence; and
2. agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership; and
3. are not married or are not a member of another domestic partnership; and
4. are not related by blood in a way that would prevent them from being married to each other in this state; and
5. are at least eighteen years of age; and
6. have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and
7. are capable of consenting to the domestic partnership.

Exercises significant authority means having the ability to influence the outcome of a decision on behalf of the local government in the course of the performance of a public servant's duties and responsibilities.

Extraordinary circumstances means circumstances which, due to the unavailability of information that is critical to the disposition by the Board of Ethics of an advisory opinion request or of a complaint, have prevented the board from completing its investigation.

Have a common residence means that both domestic partners share the same residence. Two people can have a common residence even if one or both have additional residences, or if both domestic partners do not possess legal title to the common residence. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return to it.

Immediate family means:

1. a public servant's spouse or domestic partner, or
2. a public servant's relative by marriage, lineal descent, or adoption who receives, directly or indirectly, more than one-half of his or her support from the public servant, or from whom the public servant receives, directly or indirectly, more than one-half of his or her support; or
3. an individual claimed by a public servant or a public servant's spouse as a dependent under the United States Internal Revenue Code, being 26 USC 1 *et seq.*

Joint responsibility means that each domestic partner agrees to provide for the other partner's basic living expenses if the partner is unable to provide for himself or herself.

Local government means the governmental organization of a jurisdiction which is a subdivision of a major political unit, as a state; the governing organization of the jurisdiction of _____.

Mayor means the mayor of the city of _____.

Municipal government means a Michigan city or village, for the purposes of this handbook.

Ownership interest means a financial or pecuniary interest that a public servant has in the affairs of 1) any business entity in which the public servant or a member of his or her immediate family is an officer, director, member, or employee; 2) any business entity in which the public servant or a member of his or her immediate family controls, or directly or indirectly owns, in excess of 5% of the total stock or an interest totaling $50,000 or more in value; or 3) any person or business entity with whom the public servant has a contract.

Personal services contract means a contract for the retention of an individual to perform services on behalf of the local government for a fixed period and for fixed compensation.

President means the president of the village of _____.

Private gain[4] means any benefit which is accepted or received by a public servant, or is perceived by a reasonable person to be accepted or received by a public servant, as remuneration for the purpose of improperly influencing an official action in a specific manner or for refraining from the performance of an official action in a specific manner, or as inducement for the public servant to act in favor of some interest other than in the public interest.

To clarify, *unless the above-standard is violated*, the following types of benefits, monetary payments or reimbursements, gifts, awards or emoluments may be received by a public servant:

1. payment of salaries, compensation or employee benefits to a public servant by the local government, or the payment of salaries, compensation or employee benefits to a public servant by an employer or business other than the local government pursuant to a contract where the payment is unrelated to the public servant's status as a public servant;
2. authorized reimbursement by the local government to a public servant of actual and necessary expenses incurred by the public servant;
3. fees, expenses or income, including those resulting from outside employment, which are permitted to be earned by, or reimbursed to, a public servant in accordance with the Code, policies, rules and regulations of the local government;
4. campaign or political contributions which are made and reported by a public servant in accordance with state law;
5. admission or registration fee, travel expenses, entertainment, meals or refreshments a) that are furnished to a public servant by the sponsor(s) of an event, appearance or ceremony which is related to official local government business in

connection with such an event, appearance or ceremony and to which one or more members of the public are invited, or b) that are furnished to a public servant in connection with a speaking engagement, teaching, or the provision of assistance to an organization or another governmental entity as long as the local government does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity;

6. admission, regardless of value, to a charitable or civic event to which a public servant is invited in his or her official representative capacity as a public servant where any admission or other fees required of all persons attending the event are waived or paid for the public servant by a party other than the local government or the public servant;

7. an award publicly presented to a public servant by an individual or by a non-governmental entity or organization in recognition of public service, acts of heroism, or crime solving;

8. an award, gift or other token of recognition presented to a public servant by representatives of a governmental body or political subdivision who are acting in their official capacities;

9. a gift received from a public servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article;

10. a registration fee for a seminar or other informational conference that a public servant attends in a capacity other than as a speaker, panelist, or moderator, where such registration fee that is charged for the public servant's attendance is waived or paid for the public servant by a party other than the local government or the public servant;

11. expenses or gratuities, including but not limited to admission fees, lodging, meals or transportation, that are paid for a public servant and are related to the public servant's participation at a seminar, conference, speaking engagement or presentation in his or her official capacity as a speaker, panelist or moderator where such expenses or gratuities are waived or paid for, as the case may be, by a party other than the local government or the public servant, provided that, within five business days after the conclusion of the seminar, conference, speaking engagement or presentation, such public servant files with the clerk a statement which contains the following information for each expense that is paid for or waived or for each gratuity that is provided: a) a description of the expense or of the gratuity; b) the amount of the expense or of the gratuity; c) the date that the expense was incurred or that the gratuity was received; d) the date that the expense was paid or waived, or that the gratuity was received; and e) the name and address of the party who paid or waived the expense or who provided the gratuity;

12. meals or beverages provided to the public servant by an individual or by a non-governmental organization during a meeting related to official local government business;

13. anything of value, regardless of the value, presented to or received by a public servant on behalf of the local government where the thing of value is offered to, and accepted by, the local government;

14. a gift to a public servant that either is returned to the donor or is donated to the local government or to a charitable organization within thirty days of the public servant's receipt of the gift, provided that the public servant does not claim the donation as a charitable contribution for tax purposes;

15. complimentary single copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials that are received by a public servant;

16. compensation paid to a public servant for a published work which did not involve the use of the local government's time, equipment, facilities, supplies, staff or other resources where the payment is arranged or paid for by the publisher of the work;

17. compensation paid to a public servant for a published work which did involve the use of the local government's time, equipment, facilities, supplies, staff or other resources where the payment of the compensation to the public servant is lawfully authorized by a representative of the local government who is empowered to authorize such compensation;

18. receipt by the public servant of anything of value, where the payment, gift or other transfer of value is unrelated to, and does not arise from, a public servant's holding or having held a public position, and where the activity or occasion for which the payment, gift or other transfer of value given does not involve the use of the local government's time, equipment, facilities, supplies, staff or other resources in any manner or degree that is not available to the general public;

19. hospitality that is extended to a public servant by an individual, or by an organization, for a purpose unrelated to the official business of the local government, including a gift of food, beverage, or lodging; and

20. receipt by a public servant of a devise, bequest or inheritance.

Public servant means the elected mayor, president, members of the legislative body, any member of any local government agency, board, commission, or other voting body that is established by the local government Charter or by the Code, and any appointee, any employee, or any individual who provides services to the local government within or outside of its offices or facilities pursuant to a personal services contract.

Relative means a person who is related to a public servant as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, uncle, aunt, nephew, niece, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law, or sister-in-law.

Voting body means the governing body and any other local government authority, board, commission, committee, council or group, regardless of whether its function is legislative, administrative, quasi-administrative, or quasi-judicial or any combination thereof, which, in order to take any official action, even where the action is advisory, must act as a body on the basis of a vote of some or all of its members.

Summary and conclusion

A first step in drafting an ethics ordinance must be a consideration of and discussion about the following issues:

1. Does the local government charter *require* that the ethics ordinance be organized around a central directive, or contain specific definitions?

2. If the charter does not mandate the enactment of an ethics ordinance, and if it doesn't require that the ethics ordinance be organized around a central directive or theme, and if it does not require specific definitions, which of the definitions listed in this chapter should be included?

3. What kinds of ethical issues have occurred in the past, or might arise in the future, with the elected officials, appointees, employees, volunteers and independent contractors associated with the local government?

The answers to these and other policy questions will ensure that charter-mandated requirements will be met, and that the definitions will be tailored to the needs and the concerns of the community. The answers will also assist policy makers in building a consensus with local government elected officials, appointees, employees, volunteers and independent contractors, as well as with the public, in accepting and adhering to the ethics ordinance. It is, therefore, recommended that the drafters of the ethics ordinance favorably consider the above definitions as a starting point for debate.

1. For example, see the 1997 Detroit City Charter, Section 2-106, footnote.

2. The terms and the definitions are adapted from the ethics ordinance of the City of Detroit, Section 2-6-3 of the 1984 Detroit City Code.

3. The inclusion of "*domestic partner*" relationships is based on the reality that there are certain close personal, often intimate relationships involving non-married public servants which are equivalent to the personal relationships which exist between legally married spouses. The potential for public servants to be influenced by or on behalf of partners involved with them in such "domestic partner" relationships or arrangements is just as real as the potential for public servants to be influenced by or on behalf of spouses in legal marriages or family members. This article does not adopt any position regarding the propriety of such non-marital relationships among domestic partners. However, for purposes of implementing standards for the conduct of public servants in the performance of their duties for the local government, the article does attempt to include within its reach all public servants.

   The definition of domestic partner included in this section is modeled on the definition of domestic partner contained in Division 2.5 of the Family Code, Article 9 of Chapter 1, Part 5 of Division 5 of Title 2 of the Government Code, and Section 1261 of the Health and Safety Code of the State of California.

4. *Private Gain*: Section 2-106 of the 1997 Detroit City Charter expressly prohibits the use of public office for private gain. Accordingly, a major provision in this article is the prohibition against a public servant's acceptance or receipt of private gain as compensation for 1) the taking of an official action in a specific manner by the public servant (for example, a particular decision or vote in a specific manner), or refraining from the taking of an official action, as the result of an improper influence by another party; or 2) incentive or inducement for the public servant to act in favor of an interest other than the public interest. In the interest of maintaining honesty, integrity and impartiality in government, the goal of this provision is to ensure that public servants conduct government business in a manner that enhances public confidence and respect for city government, and places paramount importance on the public interest, rather than a public servant's own personal interest or the private interest of a third-party.

   Improper influence upon a public servant's official actions refers to 1) any action that would constitute a violation of federal or state laws regulating the conduct of public officials, such as state law prohibiting the acceptance by any executive, legislative or judicial officer of a bribe (Section 118 of the Michigan Penal Code, being MCL 750.118; or 2) facts, events or circumstances which give rise to an appearance of impropriety in the taking of an official action by a public servant, when such facts, events or circumstances are considered objectively according to a reasonable person standard.

   What constitutes private gain to a public servant may take many shapes and forms and may vary depending upon the facts and circumstances of a situation. Therefore, the above definition of private gain does not attempt to enumerate all forms or types of tangible economic gain, or circumstances or situations from which a public servant may derive tangible economic gain for himself or herself. Rather than attempt to list what is private gain that may not be accepted in all circumstances, the article attempts to illustrate for public servants the circumstances or types of remuneration, emoluments, gratuities or other items that a public servant may accept without violation of this article. The listing set forth in this section is based on the most typical situations which confront city public servants. However, this is not an exhaustive list, and there may be other types of economic benefit to a public servant that are permissible under this article.

Fundamental Standards of Conduct For an Ethics Ordinance

By Dennis A. Mazurek

Overview

Before deciding upon the standards of conduct to regulate, drafters of the ethics ordinance must first determine whether the local government charter requires that its ethics ordinance include certain standards of conduct. For example, the 1997 Detroit City Charter (Section 2-106) required enactment of an ethics ordinance which, at a minimum, regulated specific areas of conduct: prohibiting the use of public office for private gain; "reasonable" financial disclosure for some officers; and the avoidance of the appearance of impropriety.

If the charter does not mandate specific provisions or standards for the ethics ordinance, the drafters can be guided by the experience of ethics experts and the ten fundamental standards of conduct that follow. Human nature too often lures public officials and public employees into taking advantage of their positions of trust to use these positions inappropriately and to unfairly benefit themselves, their families or their friends. It is this competition between self-interest and the public interest that results in unethical (and sometimes illegal) conduct; it is this conflict that gives rise to formal, codified statements regarding ethical conduct.

Ethics ordinances from 18 local governments were surveyed for this publication: Bay City, Detroit, DeWitt, Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Rochester Hills, Royal Oak, Sterling Heights, Warren, Wyandotte, and Ypsilanti. Many of them include some or all of the ten fundamental standards. In alphabetical order, the standards are:

1. Conflicts of interest
2. Disclosure
3. Impartiality
4. Improper use of position
5. Incompatible employment
6. Nepotism
7. Personal interests
8. Political activity
9. Public information
10. Public property and personnel

A list of citations to these local governments' charter and ordinance provisions is in Appendix C.

These are the areas that are most often regulated because these are the areas in which misconduct by public officials most often occurs. In order to give drafters the benefit of learning from the language and the experience of existing ethics ordinances, excerpts from the ordinances of these communities are offered to illustrate different approaches to articulating the ten basic standards of conduct. In the pages that follow, each standard is presented with a statement of its purpose, along with a compilation of excerpts from ethics ordinances. In some instances the actual language is used; in others, the codes were used as references and the language is not verbatim. Variations that are used by different municipalities are noted in footnotes.

Editor's note: To aid the reader, ordinance language options are either in brackets within the text, or footnoted. The excerpts presented here reflect a community's thinking at a point in time, although the ethics ordinance may have subsequently been revised. Also, some stylistic changes were made for consistency with the rest of the text, eg. capitalization of the titles of officials.

1. Conflicts of interest

Purpose: The duty of a public servant is to represent the best interests of the public entity, and to serve the entity with the highest degree of loyalty. This standard is at the heart of any ethics ordinance. The absence of an easily understood standard regarding conflicts of interest diminishes the effectiveness of an ethics ordinance, and ignores the primary reason for having one. The fundamental concept is that a public official is not to exploit this position of power in unjust or inappropriate ways.

- A public servant shall not make a loan of public funds, grant a subsidy, fix a rate, issue a license, permit or certificate, [participate in the negotiation or execution of contracts] or otherwise regulate, supervise or participate in a decision that pertains[1] to an entity in which the public servant, or a member of his or her immediate family, has an ownership [or financial or personal] interest.[2] *(Bay City, Detroit, Harper Woods, Lansing, Rochester Hills, Warren)*

- A public servant [whether paid or unpaid] shall not solicit or accept [or receive, directly or indirectly] a[3] gift or loan of money, [compensation], goods, services[4] [contribution, reward, employment], [5] [6] [7] or other things of value[8] [9] which would tend to influence[10] the manner in which the officer or employee performs his or her official duties. [11] [12] [13] [14] [15] [16] [17] *(Bay City, DeWitt, Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Rochester Hills, Warren, Wyandotte, Ypsilanti)*

- A public servant shall not represent his or her individual [personal] opinion as that of the city.[18] *(DeWitt, Harper Woods, Lansing, Warren)*

- A public servant shall not solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or any solicitation or proposal thereof. *(Royal Oak)*

- A public servant shall not accept any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a contract or order. *(Royal Oak)*

- A public servant shall not retain a person to solicit or secure a contract with the local government upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. *(Royal Oak)*

- A public servant shall not be a party, directly or indirectly, to any contract with the city except for the renewal or negotiation of an employment or independent contractor contract with a city officer or employee, or a collective bargaining agreement or contracts with any bona fide union. *(Ypsilanti)*

- Except for personal employment agreements authorized by the governing body, a public servant shall not solicit, negotiate, renegotiate, or approve, directly or indirectly, any contract, or amendment of any contract, with the city and 1) himself or herself, 2) any partnership, limited liability company or unincorporated association, or other legal entity of which the officer or employee is a partner, member, owner or part owner or employee, 3) any corporation in which the officer or employee is an owner or stockholder of more than one percent (1%) of the total outstanding stock of any class where the stock is not listed on an exchange, or of value of $25,000 or more where the stock is listed on a stock exchange or of which the public servant is a director, officer, or employee, or 4) any trust of which the officer or employee is a beneficiary or trustee, or represents any party to such contract. *(Ypsilanti)*

2. Disclosure

Purpose: If a government is to be both transparent and accountable, the public must know of real and potential conflicts of interest. The general public, and those within the local government organization, are entitled to know about the relationships and circumstances which might influence a public servant's performance of duty, and which might diminish an official's independence and objectivity. Public disclosure makes it possible to evaluate the potential effects of these interests upon the public official, and to prohibit participation in decision making, in the public interest. Questions about which information, how much, and when to disclose it should be resolved in favor of full, and timely, public disclosure.

- A public servant [or his or her relative] shall not engage in business with the city, directly or indirectly, [or have any financial or personal interest in any business transaction with the city] without filing a complete [written] disclosure statement for each business activity, prior to engaging in the activity, and on an annual basis. *(Farmington Hills, Jackson, Midland, Sterling Heights)*
- A public servant shall not participate, as an agent or representative of the city, in approving, disapproving, voting upon, abstaining from voting, recommending or otherwise acting upon any matter[19] in which he or she [or a relative] has a direct or indirect financial[20] interest[21] without disclosing[22] the full nature and extent of their interest.[23] *(Detroit, Farmington Hills, Jackson, Midland, Riverview)*

3. Impartiality

Purpose: Public officials must assure the public that, except for publicly approved pay and related benefits, they receive no benefits or services that aren't available to any member of the public.

Intent and purpose

- It is the intent of this Code that a public servant, regardless of whether specifically prohibited by this Code, shall avoid any action which might result in, or create the appearance of,
  1. Using public office or employment for private gain.
  2. Giving improper preferential treatment to any person or organization.
  3. Impeding government efficiency or economy.
  4. A lack of independence or impartiality of action.
  5. Making a government decision outside of official channels.
  6. Affecting adversely the confidence of the public in the integrity of the local government.

  It is not the intent of this Code to limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as such action does not provide a special benefit to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated residents in the community. *(DeWitt)*

Fair and equal treatment

- No public servant 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 public servants shall treat all citizens of the local community with courtesy, impartiality, fairness and equality under the law. *(DeWitt)*

4. Improper use of position

Purpose: To the public, an official is the governmental organization. An official's misuse of his or her position not only destroys public confidence in that public official, but it also destroys trust and confidence in the governmental organization as well. A public official must use the position and power of public office for the benefit of the community as a whole. Thus, a public official should not receive a greater benefit from his or her actions than anyone else in the community. Although this standard may seem unnecessary because the potential effect of the misconduct is so

obvious, a clear and specific statement establishes for all the assurance that abuse or exploitation of public office or public employment will not be tolerated.

- A public servant shall not make any policy statements which promise to authorize or to prevent any future action, agreement or contract, when, in fact, the public servant has no authority to do so. *(Lansing)*
- A public servant shall not act on behalf of the city in the making of contracts when, in fact, he or she has no authority to do so. *(Ypsilanti)*
- A public servant shall not make policies that affect the citizens of the community that are not authorized by the local government Charter, Code of Ordinances, governing body, an authorized agency of the local government, or its adopted policies. *(Wyandotte)*
- A public servant shall not use his or her official position in violation of federal or state law, or to obtain or to create the appearance to obtain a private gain for the public servant in return for improperly influencing a decision of the mayor, of the city council, of the city clerk, or of a member of a city authority, board, commission, committee, council or group, or other city agency. *(Detroit, Rochester Hills)*
- A public servant shall not use, or attempt to use, his or her official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself or herself, a relative, his or her immediate family, or others. *(Farmington Hills, Jackson, Livonia, Mason, Midland)*
- A public servant shall not use his or her public office and employment for personal [private or economic] gain,[24] [25] [or use or attempt to use his official or her official position to secure special privileges or exemptions for himself or herself, or others, except as provided by law].[26] *(Bay City, Flushing, Lansing, Rochester Hills, Sterling Heights, Wyandotte, Ypsilanti)*
- A public servant shall not make or participate in making a decision in his or her capacity as a public servant knowing that the decision will provide him or her, a member of his or her immediate family, or a business with which he or she is associated, a financial benefit of more than an incidental nature which is distinguishable from the benefits to the public servant as a member of the public or as a member of a broad segment of the public. *(Ypsilanti)*
- A public servant shall not take any action or create the appearance of making a government decision outside official channels. *(Rochester Hills)*
- A public servant shall not take any action or create the appearance of impeding government efficiency or economy. *(Rochester Hills)*
- A public servant shall not take any action or create the appearance of giving preferential treatment to any organization or person. *(Rochester Hills)*
- A public servant shall not take any action, or create the appearance, that adversely affects the confidence of the public in the integrity of the city. *(Rochester Hills)*
- Public servants who are members of a city agency shall not take final action on any matter under consideration that is before the agency until the citizens' rights to address the agency have been provided for, subject always to the provisions of the Michigan Open Meetings Act. *(Wyandotte)*
- A public servant shall not interfere with the ordinary course of law enforcement within the city, and shall not suggest or request special favors or consideration or disposition of any law enforcement person of the city, including the city manager, chief of police, police officers, ordinance officers, city attorney or administrative staff, concerning any city law enforcement matter including, but not limited to, parking tickets, traffic tickets, ordinance tickets, or the enforcement of city codes. *(Ypsilanti)*

5. Incompatible or dual employment

Purpose: Dual employment or dual representation by a public official can cause a conflict of interest between the discharge of official duties and the requirements of another employer. Such a conflict might impair the official's independent judgment. However, it may be possible to permit a public servant to participate in discussion or decision making due to "necessity," as determined by the public body, provided that full, timely and public disclosure takes place prior to discussion and action.

- A public servant shall not engage in or accept employment, or render services, for a private or public interest where such employment or service is incompatible [or in conflict] with the [proper] discharge [or performance] of the public servant's official duties [and responsibilities] for the city, or where such employment or service is reasonably expected[27] to impair the public servant's independence of judgment or action in the discharge [performance] of his or her official duties [and responsibilities] for the city. *(Bay City, Detroit, DeWitt, Farmington Hills, Harper Woods, Riverview, Rochester Hills, Warren, Wyandotte)*
- A public servant shall not act, for compensation from any person other than the municipality, as an agent, attorney, or representative for another person, business or organization in any matter that is pending before a city agency [other than in the course of the duties and responsibilities of his or her office or employment pursuant to duties assigned by city employee unions] [other than himself or herself before the governmental body of which the public servant is a member or employee] . (*Detroit, Flushing, Lansing)*
- A public servant may represent another person, business, or organization before a city agency where such representation is a required part of the public servant's official duties. *(Detroit)*
- A public servant shall not engage in pr employment with, or render services for, any private person who has business transactions with the city, without first making a full public disclosure of the nature and extent of such employment. *(Sterling Heights)*
- A public servant who, while a city employee, is participating directly or indirectly in the procurement process, shall not become or be the employee of, or perform a service for, any person who is contracting with the city. *(Royal Oak)*
- An elected public servant shall not engage in employment with any other agency or department of the city. *(Wyandotte)*

Note: Incompatible *public* offices

Daniel C. Matson

There are standards governing an official holding more than one public office at the same time, and they are found in the Incompatible Public Offices Act, (IPOA), 1978 PA 566 (MCL 15.181 *et seq.*). Section 1(b) of the Act defines "incompatible offices:"

> "Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:
>
> 1. The subordination of one public office to another
> 2. The supervision of one public office by another
> 3. A breach of duty of public office

Perhaps the most difficult questions arise as to when a breach of duty of public office has occurred when more than one public office is held.

The Michigan Attorney General has issued numerous formal opinions regarding public officials holding incompatible offices simultaneously. Excerpts from opinions adopted by courts involving breach of duty include these interpretive statements:

A breach of duty arises when a public official holding dual offices cannot protect, advance, or promote the interest of both offices simultaneously. A public office is a public trust, and the courts have imposed a fiduciary standard upon public officials that requires disinterested conduct.

It is well established that a breach of duty creating an incompatibility exists when a person holding dual public offices is placed at opposite sides of a contract. An incompatibility can also result out of a non-contractual matter, such as when one office has to pass upon a matter affecting the other office. (OAG 1997, No. 6931, p 124 (February 3, 1997); *Macomb County Prosecutor v Murphy*, 233 Mich App 372, 381, 382 (1999).)

Section 3 of the IPOA allows certain limited exceptions to a person holding two or more incompatible offices at the same time. The exceptions do not apply to allow or sanction activity constituting conflict of interest prohibited by the Constitution or laws of Michigan.

If there is any question about whether or not holding more than one office is incompatible, it is advisable to seek an opinion from the municipal attorney *before* the problem arises.

6. Nepotism

Purpose: Whether deserved or not, the limitation or prohibition of public service by certain persons related by blood, adoption or marriage, to others within the governmental organization avoids actual and perceived favoritism or partiality. The very fact of the relationship creates the perception of unfairness. In smaller communities it may be common for related parties to work for, or to serve in, the local government, particularly in dual-income families. In these situations the perception of favoritism can be reduced if the local government requires that such relationships be fully and publicly disclosed.

- A public servant shall not cause the employment or any favorable employment action of an immediate family member, or participate in any employment decision about such family member.
- The spouse of any elected city official, or th city administrator, shall be disqualified from holding any appointive office. The immediate family members of any elected official, or the city administrator, or the spouses of any such family members shall be disqualified from holding full-time or permanent part-time employment exceeding ten hours per week with the city during the term served by the elected official or during the tenure of the city administrator. *(Livonia, Mason)*

7. Personal interests

Purpose: The existence of a private business relationship between a public official and the municipality presents the opportunity for real or perceived abuse of public office. To protect the interests of all, the relationship should either be avoided, or should be fully and publicly disclosed.

This standard is akin to incompatible employment in that the conduct is detrimental to the objectivity of the public servant. However, participation in discussions or actions may be permitted if there is a showing of "necessity," as determined by the public body, provided that full public disclosure, and explanation, takes place.

- A public servant shall not engage in any act [or business transaction which may cause him or her] [or his or her immediate family or business that he or she is associated with] to derive a personal profit or gain directly or indirectly as a result of his or her official position [or authority] or omission in the discharge of his or her official duties for private gain [or use his or her official position or authority to profit from a business transaction] [or act in an official capacity on matters in which he or she has a private financial interest clearly separate from that of the general public].
  (Bay City, Detroit, DeWitt, Flushing, Harper Woods, Lansing, Warren)
- A public servant shall not speculate or deal in equipment, supplies, materials, or property purchased by or sold to the city.
  (Rochester Hills)

- A public servant shall not hold a substantial financial interest, i.e., any stake, including stockholder, partner, joint venture, creditor, guarantor or director, in a firm which provides services or supplies, materials or equipment to the city, *excluding* holding an interest in a firm providing services or supplies, materials, or equipment to the city where, after reporting the conflict, 1) the contract for services or supplies, materials, or equipment is awarded pursuant to sealed bids, 2) the public servant is not involved, directly or indirectly, with making the decision on the award of the contract or with the city department for which the contract relates, and 3) the city council determines, after reviewing the circumstances, that the award of the contract would be in the best interests of the city. *(Rochester Hills)*

8. Political activity[28]

Purpose: Public officials do not waive their constitutional rights upon assuming a position in a municipal government. However, reasonable limits can be established so that there is no public subsidy of the political activity. Political activity by public officials and employees jeopardizes the goal that the governmental unit will be objective and fair, and treat all equally. Local government assets such as employees' time, materials and other resources belong to the public, and should not be used for personal or political purposes.

Public officials must use public assets for authorized purposes only, and not for personal political benefit, or for the political benefit of someone else. Political activity should not be permitted under any circumstance during business hours.

- A public servant shall not use any city time or property for his or her own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid. *(Livonia, Mason)*

9. Public information

Purpose: Government insiders are often "those in the know," with access to information that may not be generally available. To avoid abuse of a public position, information must be used only as authorized, and not for personal benefit or advancement.

- A public servant shall not benefit financially[29] [or further his or her private economic interests or that of a relative or any other person] from confidential information acquired in the course of holding office or employment,[30] [31] [or knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person].[32] *(Bay City, Detroit, DeWitt, Farmington Hills, Harper Woods, Jackson, Lansing, Midland, Rochester Hills, Royal Oak, Sterling Heights, Warren, Wyandotte, Ypsilanti)*
- Except as authorized by law, a public servant shall not knowingly disclose[33] to a third party [to any unauthorized person] confidential information that is acquired in the course of his or her employment [in the course of holding office][34] [35] [including, but not limited to, information provided, obtained or discussed in closed or executive sessions of city council][36] [in advance of the time prescribed [authorized] [by the governmental body] [department head, city manager or law] for its authorized release to the public], [except as otherwise required [provided] or permitted by law]. *(Bay City, Detroit, DeWitt, Harper Woods, Lansing, Rochester Hills, Warren, Wyandotte, Ypsilanti)*
- A public servant shall not use information protected from disclosure by the Michigan Freedom of Information Act which she or he has obtained by reason of such position or authority. *(Flushing)*
- A public servant shall not disclose any confidential information, without prior formal authorization of the public body having jurisdiction, concerning any city official or employee, or any other person, or any property or governmental affairs of the city. *(Sterling Heights)*

- A public servant shall not suppress or refuse to provide city reports or other information which is publicly available. *(Livonia, Mason)*
- A public servant shall not suppress any public city report, document, or information available to the general public because it might tend to affect unfavorably his or her private financial or political interest. *(Farmington Hills)*

10. Public property and personnel

Purpose: Public resources or assets that are not offered to the general public are not to be used by the public official or anyone else for private purposes. To do so subsidizes private activities with public dollars.

- [Unless judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures], a public servant shall not [request], [directly or indirectly] use [misuse] [or permit others to use] any city [publicly]-owned [or publicly-supported] real or personal property, [vehicle, equipment, material, labor or service], city funds, city personnel, or any other tangible city assets [under his or her care] [or control] for commercial gain [for personal [financial] gain or benefit] [or personal convenience or private advantage of himself or herself or any other person] [for private economic interest or that of a relative] [or for a member of his or her immediate family or a business entity with which he or she is associated] [or the private benefit of a third party]. *(Bay City, Detroit, Farmington Hills, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Sterling Heights, Warren, Ypsilanti)*

Summary

When selecting the standards of conduct to be codified, drafters should consider:

1. Whether the local government charter requires that the ethics ordinance contain certain minimum standards of conduct;
2. Whether the charter requires that the ethics ordinance have a specific focus, for example, a requirement to prohibit or limit the acceptance of gifts;
3. Whether some or all of the standards of conduct that have been featured in this chapter should be included; and
4. What kinds of ethical issues have occurred in the local government in the past, or what kinds of ethical issues might arise in the future, with elected officials, appointees, employees, and independent contractors.

Answering these questions will ensure that charter-mandated requirements will be met, and that the standards of conduct will be tailored to the needs and the will of the community. Further, the discussion itself will increase awareness of ethical issues, and will help build a consensus among elected officials, appointees, employees, and independent contractors, as well as with the public.

---

1. or relates
2. other than as a citizen, officer, or employee of the city
3. substantial
4. promise
5. or promise of future employment
6. for the benefit of a person or organization, other than the city
7. in the form of money, a loan, service, travel, entertainment, hospitality, or other thing of promise
8. for the benefit of a person or organization
9 or give anything of value
10. or would unduly influence
11. under circumstances where it can reasonably be inferred that the gift is intended to influence him or her in the performance of his or her official action or is intended as a reward for any official action
12. or duties
13. based upon an agreement or understanding that a vote or an official action or decision would be influenced thereby
14. to accept in a one-year period a gift or any other item exceeding $100 in value from people or business entities under circumstances which may tend to impair his or her independence of judgment or action in the performance of his or her official duties

15. or favors, gratuities, or special consideration from anyone currently doing business with the city, seeking to do business with the city, or who may currently be negotiating to do business with the city in the future, or who may otherwise is or may seek any actions or approval by the city unless specifically allowed by city policy, including soliciting or accepting, without reimbursement, meals, sporting event tickets, social amenities, or attendance at any event with any organization that does business or seeks to do business with the city unless specifically sanctioned as a city sponsored event,
16. or which is intended to influence a vote, decision, or other exercise of official authority in any matter involving the city
17. based upon an agreement that the vote or official action or the official action or decision of the public servant would be influenced thereby
18 or falsely represent his or her personal opinion to be the official position or determination of the governmental body which he or she is a member or employee
19. or in a decision or transaction
20. an economic
21. or benefit
22. on the public record
23. or without providing written notification to the city council, if an elected public servant, or to his or her immediate supervisor if a non-elected public servant.
24. or use the authority, title, or prestige of his or her public office for the attainment of a public servant's financial gain or that of a member of his or her immediate family's private financial benefit when inconsistent with the public interest
25. or engage in a business transaction in which th servant may profit from his or her official position or authority
26. or make unauthorized use of his or her public position to obtain financial gain for himself or herself, a member of his or her immediate family, or a business [or entity] with which he or she is associated.
27. or tends to impair
28. The Michigan Campaign Finance Act, MCL 169.201 *et seq*., requires that candidates for public office make campaign contributions and expenditures public by filing appropriate reports.
29. or use for private gain
30. or obtained or may obtain by reason of his or her position or authority
31. or use or permit the use of confidential information to advance a financial or personal interest of himself or herself, or of any other person
32. or make unauthorized use of any confidential information received through holding such public position to obtain financial gain for himself or herself, a member of his or her immediate family or a business [or entity] with which he or she is associated
33. or divulge
34. in the course of holding his or her position
35. in the course of his or her service
36. to any person not authorized to obtain such information

Consequences for Violating the Ethics Ordinance

By Dennis A. Mazurek

Overview

This chapter discusses the range of penalties, or sanctions, which can be found in the ethics ordinances of the 18 local governments that were surveyed for this study. These municipalities have taken different approaches to responding to violations of their ethics ordinances, and to enforcement. It's important to remember there are many players on the municipal stage, such as elected and appointed officials, employees (full-time and part-time), volunteers, vendors, and contractors. Not all will come within the scope of an ethics ordinance. For those who are subject to an ethics ordinance, the range of sanctions runs from self-policing with no formal sanctions, to criminal penalties:

No sanction or penalty

Public admonition or reprimand

Public censure

Forfeiture of office and removal proceedings

Disciplinary action

Termination of contract (external vendors or contractors)

Municipal civil infraction

Cumulative sanctions

Misdemeanor

Felony

Review of decision

Those who are charged with drafting or developing an ethics ordinance can consider a wide range of penalty options, and the penalties can be tailored to fit the community.

Before thinking about penalties, however, the first step must be to decide whether the ethics ordinance should be "*aspirational*," whether it should have sanctions that are enforceable, or whether it should be something in between. An aspirational approach reminds officials of their mission in service to the public, sets forth what they should aspire to and how they should conduct themselves, but it stops short of imposing serious penalties for failing to live up to the standards. An approach that demands greater accountability states the standards of conduct that are expected, the consequences for violating the standards, and the means by which it will be enforced, which is usually through the local court system.

Ethics ordinances that lean toward the aspirational can be found in both large and small municipal governments, such as Detroit, Farmington Hills, Jackson, Mason, Midland, Riverview, and Rochester Hills. A more accountable approach can be found in the ethics ordinances of Bay City, Flushing, Harper Woods, Lansing, Livonia, Royal Oak, Sterling Heights, Warren, and Ypsilanti. Interestingly, two communities, DeWitt and Wyandotte, have combined the two approaches.

Considerations

To help drafters think through the kind of ethics ordinance they want for their community, the following considerations are proposed for discussion.

1. What does the local government charter say about enforcement?
2. Should the ethics ordinance be aspirational, establishing the standards of conduct that public officials should exemplify, or should the standards be enforceable, with penalties or sanctions imposed when violations occur?
3. If the standards of conduct are to be enforced, who will,
    a. Receive and process complaints?
    b. Investigate complaints?
    c. Decide whether a violation has occurred?
    d. Decide whether a sanction should be imposed?
    e. Enforce the sanction?
    f. Oversee the process?
    g. Provide advice about whether a proposed action violates the ethics ordinance?
    h. Provide training to all those to whom the ethics ordinance applies?
4. At what point in the process does the Michigan Freedom of Information Act provide the public with a right to know?
5. Should a body, such as a board of ethics, be created to respond to requests for advisory opinions and complaints?
6. Where discipline is contemplated, how will collective bargaining agreements be affected?
7. Will the local government be able to successfully prosecute its elected officials before its elected district court judges?
8. What effect will potential civil or criminal penalties have on employee morale?

9. Will civil or criminal penalties dissuade potential employees from seeking employment with the local government organization?
10. Does the political will exist to adopt an ordinance with serious sanctions?
11. Will the sanctions be fairly and uniformly applied?

A discussion of these questions is important to help policy makers understand what is being undertaken, and to develop a consensus for action. The process can be especially challenging when, in effect, the policy makers are proposing and enacting legislation to regulate themselves.

Responding to violations of an ethics ordinance

Eleven different kinds of responses to violations have been identified in the ethics ordinances of the 18 local governments that were surveyed. The enforcement sanctions are included below in the order of severity, from lesser to greater. Each example provides the actual language from the ordinance.

No sanctions

An aspirational ordinance is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and employees; it is not designed to be a punitive measure. It is anticipated that the issuance of advisory opinions by the Board of Ethics will conclude all matters originating as requests for advice, and substantially all matters originating as complaints. The Board of Ethics is not an adjudicative body and no finding of the Board should be deemed conclusive, nor should it subject any municipal official or employee to penalties. *(Mason)*

This chapter is intended to establish standards governing conduct in dealings with the city. Violations of this chapter shall not make the violator subject to a fine or incarceration. *(Rochester Hills)*

Public admonition

In the event the Board of Ethics determines that a violation of this article has occurred, the Board may adopt a resolution of public admonition [*Editor's note: mild rebuke or reprimand*] against a public servant which includes the mayor, members of the city council, the city clerk, any member of any city agency, board, commission, or other voting body that is established by the city charter or by the city code, and any appointee, any employee, or any individual who provides services to the city within or outside of its offices or facilities pursuant to a personal services contract regarding the violation. *(Detroit)*

Public censure of elected officials

Violation of this Ordinance by an elected official may result in censuring by unanimous vote of the remaining members of the city council. [*Editor's note: A censure is a strong disapproval or condemnation, expressed by a resolution passed by the governing body.*] *(Riverview)*

Forfeiture of office and removal proceedings

Where, based upon an investigation arising from a complaint, the Board of Ethics determines that there may be grounds for further investigation for possible forfeiture of or removal from office under the City Charter and applicable law, the matter may be referred by the Board to the city council for consideration of forfeiture or removal proceedings in accordance with the City Charter. *(Detroit)*

Depending upon the employment status of the city official or employee involved, or group concerned, and the nature of the action requested, all matters concerning the Conflict of Interest and Ethical Code shall be directed to either i) the mayor, the city council and the city attorney for elected and appointed officials, or ii) to the city manager and the city attorney for full and part-time appointed employees. In matters concerning the mayor, city manager or city attorney, the mayor pro tem will assume

the controlling authority position in place of the affected official. When requested, these authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning Conflict of Interest and the Ethical Code policy of the city. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include, but is not limited to, taking [*Editor's note: or recommending*] appropriate disciplinary action, including removal from office or appointed position, in accordance with the City Charter, the City Code, state law, or the regulations or policies of the city. *(Farmington Hills, Jackson, Midland).*

The penalty or penalties imposed are not exclusive remedies under this ordinance and any and all statutory and Charter penalties or forfeitures may also be enforced. *(DeWitt, Sterling Heights)*

Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant. When requested, the above-listed authorities shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, taking appropriate disciplinary action, including removal from office or appointed position in accordance with the City Charter, Code of Ordinances or state law. *(Wyandotte)*

Disciplinary action

Where the Board of Ethics determines that a violation of this article by such public servant may present grounds for disciplinary action, the matter may be referred by the Board to such public servant's supervisor with a recommendation that the public servant's conduct be reviewed for disciplinary action. Any such disciplinary action must be carried out in accordance with the provisions of the City Charter and other laws, policies and procedures that are applicable to the position of the public servant and with the gravity of the offense. *(Detroit)*

Depending upon the employment status of the public servant or group involved, or group concerned, and the nature of the action requested, all matters concerning the Conflict of Interest and Ethical Code shall be directed to either i) the mayor, the city council and the city attorney for elected and appointed officials, or ii) to the city manager and the city attorney for full and part-time employees. In matters concerning the mayor, city manager or city attorney, the mayor pro tem will assume the controlling authority position in place of the affected official. When requested, these authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning Conflict of Interest and the Ethical Code policy of the City. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include, but is not limited to, taking [*Editor's note: recommending*] appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the City Charter, the City Code, state law, or the regulations or policies of the city, or the requirements of any collectively bargained agreement. *(Farmington Hills, Jackson, Midland)*

Violation of this Ordinance by the city manager, or an officer or employee may result in disciplinary action, up to and including discharge, in accordance with city policies, applicable collective bargaining agreements, and employment contracts. *(Riverview)*

Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the city of Wyandotte

chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant. When requested, the above-listed authorities shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the City Charter, Code of Ordinances or state law. *(Wyandotte)*

Recommendation of termination of contract

Where the Board of Ethics determines that an existing city contract has been entered into in violation of the provisions of this article, after such determination and recommendation from the Board, the city may void or seek termination of the contract where legally permissible. *(Detroit)*

Municipal civil infraction[1]

This chapter is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and employees and is not intended to be a punitive measure. It is anticipated that the issuance by the Board of Ethics of advisory opinions will conclude all matters originating as requests for advice and substantially all matters originating as complaints. The Board of Ethics is not an adjudicative body and no finding of the Board shall be deemed conclusive nor, in and of itself, subject any city official or employee to penalties. In the event of legal proceedings alleging a violation of this chapter, then in accordance with the provisions of the City Charter, a violation of this chapter shall constitute a municipal civil infraction, and shall subject a person found responsible by a court of violating this chapter to a maximum civil fine of not more than one hundred dollars. *(Livonia)*

Misdemeanor

Any official, officer or employee who violates this ordinance shall be guilty of a misdemeanor, which shall be punishable by a fine not to exceed $500 or by imprisonment of not more than ninety days in jail or both, in the discretion of the court. *(Bay City, DeWitt, Ypsilanti)*

Any person violating any of the provisions in this article shall, upon conviction, be punished as prescribed in this Code. *(Sterling Heights)*

Any person convicted under the provisions of this ordinance shall be deemed guilty of misconduct. *(DeWitt, Sterling Heights)*

Violation of the provisions of this ordinance shall be a misdemeanor. *(Flushing, Harper Woods, Lansing)*

Failure of an elected official or appointee to file a disclosure form with the city clerk by March 28 of each year, or to file a conflict of interest disclosure form with the city clerk, shall be a misdemeanor and may result in a fine not to exceed five hundred dollars ($500.00) or imprisonment for not more than ninety days, or both. *(Wyandotte)*

Felony

To the extent that violations of ethical standards of conduct set forth in this Ordinance constitute violations of the Michigan Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Ordinance. *(Royal Oak)*

Cumulative sanctions

The invocation of one subsection of this section does not preclude the application of any other subsection of this section or of any other applicable laws or policies. *(Detroit)*

The penalty or penalties imposed are not exclusive remedies under this ordinance and any and all statutory and Charter penalties or forfeitures may also be imposed. *(DeWitt, Sterling Heights)*

Review of Decision

Where the Board of Ethics finds that a decision of the mayor, the city council, the city clerk, an appointee, or other public servant was made in violation of this article, the board may recommend to the mayor, the city council, the city clerk, an appointee, or other public servant that such decision be reviewed in accordance with the applicable provisions of the City Charter and the City Code. Upon such recommendation, the decision may be reviewed by the mayor, the city council, the city clerk, appointee, or other public servant in accordance with the applicable provisions of the City Charter, the City Code, and any other applicable laws. *(Detroit)*

Conclusion

What will happen when it appears, or when it is determined, that the ethics ordinance has been violated? Is it enough to plainly say what the public official's duty to the public is? Is it enough to say, in a formal and public way, what the standards of conduct should be for those who serve the local government? Or should some kind of consequence, from private admonition to criminal penalty, flow from a violation of those standards?

In drafting an ethics ordinance, the selection of an appropriate sanction and enforcement process for a municipality is a difficult task. While it is advisable to avoid harsh and extreme punishment for incidental infractions, it is unwise to allow significant violations to go unpunished. At the same time, it is important to remember that Michigan statutes provide for the prosecution of criminal offenses.

While both the aspirational and accountable approaches to ethics ordinances are worthy of consideration, the aspirational approach affords greater control of the enforcement process than does a more punitive approach. With both, enforcement involves some type of sanction. The aspirational approach is grounded in the concept of self-policing, and minimizes reliance on overloaded district courts by keeping enforcement "in-house." On the other hand, the punitive approach ultimately plays out in the courts, where the imposition of sanctions is a matter left to the discretion of judges for whom a violation of an ethics ordinance may be no more compelling than a minor violation of any ordinance of the local government.

---

1. There is an important legal distinction between a *municipal civil infraction* and a *civil infraction* as defined by statute. Consult the enabling act relevant to your jurisdiction to determine which class of infraction applies. Section 4L of the Michigan Home Rule City Act, MCL 117.4L, identifies certain statutes that will permit or prohibit their classification in either category.

Enforcement and Administration of an Ethics Ordinance

By Dennis A. Mazurek

Considerations

In designing systems for enforcement and administration of an ethics ordinance, the complexity of the task will depend on whether the drafters choose an aspirational approach to encouraging ethical behavior, or a more accountable and enforceable approach by which certain ethical conduct is required. The aspirational approach reminds public officials of the standards of conduct to which they should aspire, but it does not assign serious penalties for failure to abide by the standards. On the other hand, an approach that includes serious sanctions must set clear standards for required conduct, along with the consequences for violating the standards.

In thinking through an enforcement system, drafters should consider some basic questions.

1. Which segments of the municipal organization come within the jurisdiction of the ethics ordinance?

2. Should there be one enforcement system for elected and appointed officials, and a separate process for employees?
3. Who should be given authority to investigate and enforce the ordinance when the conduct of elected officials is questioned?
4. Should the group that will have responsibility for enforcement be part of the municipal organization, or should it be independent of the municipality?
5. Who shall appoint the members of that group, and how long should they serve?
6. How should the process balance an individual respondent's right to privacy, and the public's right to know? Can any part of the process remain private under the Michigan Freedom of Information Act?
7. How shall the enforcement system be funded? Should the ethics ordinance include a requirement that the municipality provide "adequate" resources for enforcement?

In general, an enforcement process and administrative system usually include:

a. Receipt and processing of complaints or allegations that the ethics ordinance has been violated;
b. Notice to the person(s) complained about;
c. Investigation of complaints;
d. An initial decision whether a violation may have occurred, or whether the complaint is without grounds and should be dismissed;
e. Gathering and recording of facts;
f. Hearing the respondent's version of the circumstances of the alleged misconduct;
g. Testimony from witnesses;
h. Deciding whether a sanction should be imposed, and if so, what sanction;
i. Implementing or enforcing the sanction;
j. Overseeing the enforcement process;
k. Keeping records of complaints and results;
l. Providing advice, or advisory opinions, about whether a contemplated action would violate the ethics ordinance; and
m. Providing periodic training to all who are within the jurisdiction of the ethics ordinance.

Overview

As always, a first step is to determine whether the local government charter requires a specific enforcement mechanism that must be codified in the ethics ordinance, and then implemented. An example of how a local government incorporated some of the elements listed above, Section 2-106(2) of the 1997 Detroit City Charter may be helpful. It mandates a comprehensive structure for enforcement and improvement of ethical standards, and a Board of Ethics is its primary enforcement and administrative mechanism.

Section 2-106(2) An independent Board of Ethics is created. The Board of Ethics shall consist of seven members:

1. Seven members of the public,
   a. Three of whom shall be appointed by the city council,
   b. Three of whom shall be appointed by the mayor; and
   c. One of whom shall be jointly appointed by the mayor and city
2. None of the Board members shall be removed by the respective appointing authority except for cause; [*Editor's note: "Cause" in this context might include breach of a duty relating to the office, e.g. misfeasance, malfeasance, or nonfeasance.*]
3. The term of membership of the Board shall be five years, and not more than two members' terms shall expire in any one year;
4. Each appointee may serve a maximum of two consecutive five-year terms, not to exceed a total of ten years.

Public members of the Board shall be residents of the city who are not elected officers, appointees, or employees of the city at any time during their Board membership. Members shall serve without compensation. All city elected officers, appointees, and employees shall be available for consultation with the Board of Ethics as it deems necessary. The Board of Ethics shall issue advisory opinions regarding the meaning and application of provisions of the Charter, city ordinances or other laws or regulations establishing standards of conduct for elected officers, appointees, or employees. Advisory opinions shall be rendered upon written request by an elected officer, appointee, or employee. Advisory opinions shall be published by the Board annually in a report to the mayor and city council. The opinions shall not disclose the identity of the elected officers, appointees, or employees concerned.

All meetings of the Board shall be open to the public, unless an individual involved in the matter to be addressed requests in writing that the meeting be closed, or unless otherwise provided by ordinance.

Consistent with state law, the Board of Ethics may recommend improvements in the standards of conduct to ensure the ethical behavior of city elected officers, appointees, and employees, or in the organization and procedures related to the administration and enforcement of those standards. The Board of Ethics shall be authorized by ordinance to conduct investigations on its own initiative, subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, appoint independent counsel when necessary, and to perform other functions essential to ensure the integrity of city government. The Board shall establish its rules and procedures, in accordance with Section 2-111 of this Charter. Funds sufficient to enable the Board to perform its duties shall be appropriated annually.

Examples of different enforcement systems

The ethics code enforcement mechanisms in the ordinances of 17 local governments in Michigan were surveyed and are highlighted below. These examples are from Bay City, Detroit, DeWitt, Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Royal Oak, Sterling Heights, Warren, Wyandotte, and Ypsilanti. Six different versions of enforcement systems were identified in these ordinances.

1. Boards of Ethics

The cities of Detroit, Lansing, Livonia, Mason, and Warren have enacted ordinances requiring a Board of Ethics. Although the Ethics Ordinance of the city of Detroit goes far beyond where most communities will want to go, it, again, provides a useful and detailed example of the various elements that drafters might want to consider.

Charter independence; duties; promulgation of rules.

a. The city of Detroit Board of Ethics is an independent body that was created by Section 2-106(2) of the 1997 Detroit City Charter for the following purposes:

   1. To render advisory opinions regarding the meaning and application of provisions of the 1997 Detroit City Charter, this article, and other laws or regulations which pertain to disclosure requirements and standards of conduct for public servants;

   2. To conduct investigations based upon a complaint in order to ensure the integrity of city government, through the subpoenaing of witnesses, the administering of oaths, the taking of testimony, compulsion of the production of relevant evidence, and, when necessary, the appointment of independent counsel; and

   3. To recommend a) improvements in the disclosure requirements that are found in Division 2 of this article, and the standards of conduct that are found in Division 3 of this article, and b) improvements in the administration and enforcement thereof, in order to promote an ethical environment within city government, and to ensure the ethical behavior of public servants.

b. In accordance with Section 2-111 of the 1997 Detroit City Charter, the Board of Ethics shall promulgate administrative rules to perform its duties as set forth in the 1997 Detroit City Charter and this article.

Limitations on Board's authority
The Board does not have the authority to reverse or otherwise modify a prior decision of the mayor, the city council, the city clerk, appointee, or other public servant.

Resources and staffing

a. A sufficient annual appropriation shall be provided to enable the Board of Ethics to perform its duties as set forth in the 1997 Detroit City Charter and this article, including hiring adequate staff.

b. The corporation counsel shall assign legal counsel from the city of Detroit Law Department who shall provide representation and advice to the Board on legal matters. The Board may refer a matter to the city attorney from the law department who represents the Board for appropriate action. Upon completion of review and consideration, the city attorney shall report his or her findings to the Board. Any retention of outside counsel on behalf of the Board of Ethics shall be governed by the provisions of section 6-408 of the 1997 Detroit City Charter.

Each city agency to cooperate and assist
As needed, each city agency shall cooperate in gathering information to assist the Board of Ethics in performing its duties.

Information provided to Board to remain confidential
Members of the Board of Ethics or any public servant who have access to any confidential information that is related to the functions or activities of the Board are prohibited from divulging such information to any person who is not authorized to possess the information.

Annual report

a. On or before April 1 of each year, the Board of Ethics shall issue simultaneously to the mayor and to each member of the city council a report that contains:

1. An analysis of all activities of the Board including the number of advisory opinions requested and the number issued, and the number of complaints filed and the disposition thereof during the preceding calendar year;

2. A compilation of opinions that have been issued during the preceding calendar year; and

3. The Board's recommendations, if any, a) for improvement of the disclosure requirements that are found in Division 2 of this article, and of the standards of conduct that are found in Division 3 of this article, and b) for improvement of the administration and enforcement thereof.

b. In addition, a copy of this annual report shall be submitted to the city clerk, each department director, each agency head and the municipal reference library.

2. Chief of police/city attorney

In the ethics ordinance of the city of Wyandotte, the chief of police and the city attorney direct the enforcement process.

a. Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the city of Wyandotte chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant.

b The above listed authorities, when requested, shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article.

c. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, any of the following:

1. Pursuing further investigation by the controlling authority;

2. Taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the Wyandotte City Charter, Code of Ordinances or state law;
3. Pursuing such other course of action which is reasonable, just and appropriate under the circumstances;
4. Pursuing criminal prosecution for failure to file the necessary disclosure forms required in this article;
5. Determining no action is required and stating the reasons therefore; and
6. Recovering the costs and expenses the city has incurred against an individual under the cost recovery provisions of Section 2-312.5.

3. City attorney

The Bay City ordinance provides that the city attorney shall head up the enforcement system.

All complaints concerning violations of this ordinance shall be made to the city attorney, who shall investigate and prosecute all allegations concerning or relating to violations of this ordinance.

4. City manager/city commission/ city council

Riverview and Royal Oak chose the city manager, city commission and city council to be the enforcement system.

The following sanctions shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement, nor the city's obligation to comply with such collective bargaining agreements.

a. Mayor and commissioners. The Royal Oak city commission shall have the authority to issue an oral or written warning or reprimand to one of its members for violations of the ethical standards in this Ordinance.

b. Employees other than elected officials. The city manager, or the city commission if the employee is appointed by the commission pursuant to the Charter, may impose any one or more of the following sanctions upon an employee for violations of the ethical standards in this Ordinance:

   1. Oral or written warnings or reprimands;
   2. Suspension with or without pay for specified periods of time; or,
   3. Termination from employment.

c. Non-employees. The city manager or city commission may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards:

   1. Written warnings or reprimands;
   2. Termination of contract; or,
   3. Disbarment or suspension.

5. Mayor/city council/ city cttorney/city manager

The ordinances of Farmington Hills, Jackson, and Midland include the mayor, city council, city attorney, and city manager in the enforcement system.

a. All matters concerning the conflict of interest and ethical code shall be directed to one of the two following controlling authorities depending upon the employment status of the city of Farmington Hills official /employee involved, or group concerned, and the nature of the action requested:

   1. Elected and appointed officials of the city of Farmington Hills to the mayor, city council and city attorney.
   2. Appointed employees, full and part-time, of the city of Farmington Hills to the city manager and city attorney.

b. The above listed authorities when requested, shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning conflict of interest and the ethical code policy of the city of Farmington Hills. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include but is not limited to any of the following:

1. Referral of the matter to a higher authority.
2. Pursuing further investigation by the controlling authority.
3. Taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the Farmington Hills City Charter, City Code, state law, or the regulations or policies of the city of Farmington Hills.
4. Determining no action is required.
5. Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.

c. The above listed controlling authorities may render written advisory opinions, when deemed appropriate, interpreting the Conflict of Interest and Ethical Code of Conduct as set forth in Section 3 above. Any city official /employee may seek guidance from the controlling authority upon written request on questions directly relating to the propriety of their conduct as officials and employees. Each written request and advisory opinion shall be confidential unless released by the requester.

1. Request for opinions shall be in writing.
2. Advisory opinions may include guidance to any employee on questions as to:

a. Whether an identifiable conflict exists between his/her personal interests or obligations and his/her official duties.

b. Whether his/her participation in his/her official capacity would involve discretionary judgment with significant affect on the disposition of the matter in conflict.

c. What degree his/her personal interest exceeds that of other persons who belong to the same economic group or general class.

d. Whether the result of the potential conflict is substantial or constitutes a real threat to the independence of his/her judgment.

e. Whether he/she possesses cer knowledge or know-how which the city will require to achieve a sound decision.

f. What effect his/her participation under the circumstances would have on the confidence of the people in the impartiality of their city officials and employees.

g. Whether a disclosure of his/her personal interests would be advisable, and, if so, how such disclosure should be made so as to safeguard the public interest.

h. Whether it would operate in the best interest of the people for him/her to withdraw or abstain from participation or to direct or pursue a particular course of action in the matter.

6. District court

Dewitt, Flushing, Harper Woods, Sterling Heights, and Ypsilanti have ethics ordinances featuring the district court as the head of the enforcement system.

Any person who shall be convicted, by a court of competent jurisdiction, of violating any of the provision(s) of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment of not more than ninety days, or both, in the discretion of the court.

a. In addition, any person so convicted by a court of competent jurisdiction shall forfeit any city employment or office held. The office shall be vacant upon conviction.

b. Any person convicted by a court of competent jurisdiction of a misdemeanor involving election fraud, or any felony, or a misdemeanor involving moral turpitude committed in the course of employment with the city, shall forfeit any city employment or office held. The office shall be vacant upon conviction.

Chapter 4: How to Proceed

Essay

Developing, Adopting and Implementing an
Ethics Ordinance: The Process 55

Developing, Adopting and Implementing an Ethics Ordinance: The Process

By Daniel C. Matson

1. Getting started

A charter can be *silent* on the question of an ethics ordinance, or it can *mandate* the adoption of an ethics ordinance, along with a time certain for enactment. In either case, because there is much to consider about the content of an ethics ordinance, and because there is much to research, a reasonable amount of time for its development should be allowed. A period of one year seems to be adequate time for most communities to prepare and enact an ethics ordinance, although some require a longer time.

2. The study committee

A committee should be formed to review the initial draft of a proposed ethics ordinance or to draft the ordinance in consultation with a knowledgeable municipal attorney. It is helpful to involve people with municipal experience, people with a legal background, and people with broad experience in the community. It is helpful to include at least one elected official who serves on the legislative body and who is interested in the undertaking. This person may assist in formulating the ethics policy, and also by endorsing and presenting the ordinance to the legislative body for adoption.

3. Finding background materials and examples

This publication is intended to serve as a guide for the ethics ordinance study committee. It provides the basic standards of conduct that are found in many ethics ordinances, and it points to a number of ordinances currently in use in Michigan cities. The Michigan Municipal League database can identify more communities in which comprehensive ethics ordinances exist. In addition, the League will provide copies of ordinances upon request. Since no two communities will have the same perspective or approach toward codifying standards of conduct, it is strongly advised that the ethics ordinance of another local government not be adopted as is. One size doesn't fit all, and it is important that an ethics ordinance be tailored to the circumstances of the community and the municipality that will be asked to adopt and to abide by the ordinance.

4. Legal research and drafting

Ideally, the development of an ethics ordinance should have the benefit of legal advice every step of the way. This might be a luxury for some municipal governments, but legal review should occur periodically, or at least at the end of the drafting process, before the work product is offered to the public. Both Constitutional and statutory law must be consulted to ensure that the ethics provisions are valid subject matters for the ordinance, and are not preempted by higher law. Also, the ethics ordinance will affect various rights and duties of municipal employees, and collective bargaining agreements must be considered.

The municipal charter or a contract with the attorney may require the attorney to draft the document in its entirety because it is to be an ordinance, or may at least require the attorney's review prior to its presentation to the legislative body. Involving the attorney in the complete process is strongly recommended.

5. Adopting the ordinance

When the ethics ordinance committee is satisfied with its work product, and after it has had adequate legal review, the proposed ordinance is then submitted to the legislative body for consideration,

along with the committee's recommendation for adoption. Members of the committee may assist in the discussion during the public forum as the matter is debated. They can provide background information, explain the rationale for the standards of ethical conduct chosen, explain the committee's approach to the proposed ordinance, and facilitate an understanding of both the meaning and the effect of the provisions in the proposed ordinance.

6. Publication of the ordinance

The complete ordinance, or a summary of it, must be published in the manner required by state and local law. In addition, each person in service to the municipality (elected and appointed officials, full- and part-time employees, and volunteers serving on boards and commissions) should be given a copy of the ordinance. They should also be required to read it and be given an opportunity to raise questions about its effects. Depending upon the structure of the organization, it may be appropriate to have department heads review the ordinance with staff in special meetings scheduled for that purpose.

7. Living with the ethics ordinance

The ethics ordinance exists to provide a reasonable framework in which the local government servant is to function and meet public expectations. To be as effective as possible, on-going training and discussion should be available for all who come within the jurisdiction of the ordinance. The purpose of any ethics ordinance is, after all, to promote the trustworthiness of government. Those who serve *in* government, and those who are served *by* government, which is all of us, want to know that our government exists to promote the public good.

Appendix A: The Contributors

The contributing authors and the editor of the Ethics Handbook are all attorneys at law and they are all current and longstanding members of the Ethics Roundtable of the Michigan Association of Municipal Attorneys. All are indebted to William L. Steude, as without his belief in the importance of ethical conduct in the affairs of government, this project would not have happened.

Daniel C. Matson
City Attorney, City of DeWitt
Village Attorney, Village of Fowler
Chair, Ethics Roundtable

Contribution:
The Dedication, Preface, and "Developing, Adopting and Implementing an Ethics Ordinance: The Process"

Dennis A. Mazurek
Chief Assistant Corporation Counsel
City of Detroit Law Department

Contribution:
Chapter 3, "The Substance of a Local Government Ethics Ordinance"

William C. Mathewson
General Counsel, Michigan Municipal League
Secretary/Treasurer, Michigan Association of Municipal Attorneys

Contribution:
The Forward and "Different Forms of Local Government; Different Routes to Adopting Ethics Standards for Your Community"

William L. Steude
Former General Counsel, Michigan Municipal League and Secretary/Treasurer, Michigan Association of Municipal Attorneys

Contribution:
"Civility in Local Government: The Civil Society" and "Including Ethics Provisions in Local Government Charters: Advice for Charter Commissions"

John J. Rae
Retired, former City Attorney, City of Midland

Contribution:
"Ethics and Why It Matters"

Michael P. McGee
Senior Principal,
Miller, Canfield, Paddock and Stone, PLC
Lecturer and Advisor on Municipal Ethics

Contribution:
"Labor Considerations"

Peter A. Letzmann
Former City Attorney, City of Troy
Adjunct Professor, Grand Valley State University
Chair, Education and Professionalism Committee, Michigan Association of Municipal Attorneys

Contribution:
"An Ethics Bibliography"

Mary M. Grover
Retired attorney, former International City/County Management Association Ethics Advisor
Public Sector Ethics Consultant and Trainer

Contribution:
Editor

Appendix B:
Some Ethics-Related Michigan Statutes

The following are Michigan statutes that have been referred to in the text, and that have implications for the development of ethics codes and ethics ordinances by local governments. The list is not intended to be comprehensive, but, rather, instructive.

Conflicts of Interests as to Contracts Act, Act 317, 1968 (MCL 15.321 *et seq*.)

Failure to uphold or enforce the law (MCL 752.11)

False statement of public finances (MCL 750.489)

Incompatible Public Offices Act (MCL 15.181)

Political Activities by Public Employees, Act 160, 1976 (MCL 15.401 *et seq*.)

Public moneys, manner of keeping, embezzlement, etc. (MCL 750.490)

Purchase of goods on public credit (MCL 750.490a)

Standards of Conduct and Ethics Act, Act 196, 1973 (MCL 15.341 et seq.)

Whistleblower's Protection Act, Act 469, 1980 (MCL 15.361-15.369)

Willful neglect of duty (MCL 750.478)

Appendix C:
Eighteen Local Government Ethics Ordinances

The text refers to eighteen municipalities' charters and ethics ordinances that were reviewed, and excerpts from them were offered as examples. The following is a listing of the citations for these charters and ordinances, some of which are available on the Michigan Municipal League website. Also included are citations for municipal charters that include provisions regarding ethics.

Local Government	Population[1]	Charter or Ordinance Citation
DeWitt	4,441	Charter Art. 8, §8.14; Code of Ordinances, Ch. 2, Art. VI, §2-191 *et seq.*
Mason	7,985	Ordinance 132, effective October 1, 1999
Flushing	8,110	Ch. 37 of Ordinances, §3701 Code of Conduct, A through G; and §3702 Financial Disclosure; adopted 1993
Riverview	12,744	City Code of Ordinances, Ch. 2, Div. 3, Secs. 2-71 through 2-78
Harper Woods	13,621	Ordinance 96-3: Article VIII, Secs. 2-275 through 2-280, City Code of Ordinances
Ypsilanti	21,832	Ypsilanti City Code, Chapter 46, Articles II and III, adopted May 22, 1995
Wyandotte	26,940	Ord. No. 1235, Sec. 1; revised July 18, 2005
Jackson	34,879	Charter, §9.13 Ethics Ordinance, adopted Nov. 4, 1997; Ordinance 99-25, adopted Nov. 16, 1999
Bay City	34,879	Charter, Article 7, §§7.1-7.3; Code of Ordinances, Chapter 2, §2.30 *et seq.*
Midland	41,760	Ordinance No. 1337: Ch. 32, Secs.32-1 through 32-6, City of Midland Code of Ordinances, dated January 22, 1996
Royal Oak	58,299	Ch. 45, Royal Oak City Code, adopted in 1993, and amended in 1998 and 2004
Rochester Hills	69,995	Ch. 50, Ethics, Secs. 50-1 through 50-7, effective February 13, 1996
Farmington Hills	80,223	Code of Ethics, adopted December 11, 1989
Livonia	97,977	Ethics Ordinance, §2.200.010 through §2.200.100, adopted 1997
Lansing	115,518	Charter, Ch. 5, §§5-501-5-505; Ordinance 290.01-290.12 (1966)
Sterling Heights	128,034	Code of Ethics for Public Officials and Employees, Ord. No.165, §1.01, with Guidelines, effective December 18, 1974
Warren	135,311	Article VIII, Code of Ethics, §§2-371 through 2-381, adopted September 11, 1991
Detroit	886,671	Detroit City Charter, §2-106 et seq., 1997 Detroit City Charter; Detroit Code, Article VI Ethics, §2-6-1 *et seq.*

1. Source of population data: U.S. Census Bureau, 2005 population estimates

Appendix D:
Ethics Resources for Local Governments

Aaron, Henry J., Thomas E. Mann and Timothy Taylor. *Values and Public Policy.* Brookings Institution Press, Washington, D.C., 1994.

Bell, A. Fleming, II. *Ethics in Public Life, Adapted from Ethics, Conflicts, and Offices: A Guide for Local Officials*. Institute of Government, the University of North Carolina at Chapel Hill, 1998. The book explores what ethics and the public trust mean, and presents ways that the ethical climate of government can be improved.

Berman, Evan M., Jonathan P. West, and Stephen J. Bonczek, eds. *The Ethics Edge.* Washington, D.C.: International City/County Management Association, 1998. A collection of articles covering contemporary insights and current ideas on management practice in ethics.

Bok, Sissela. *Lying: Moral Choice in Public and Private Life.* Pantheon Books, a division of Random House, Inc., 1978. A inquiry into the practice of lying, the avoidance of the hard questions, and the resulting damage.

Bowman, James S., ed. *Ethical Frontiers in Public Management.* Jossey-Bass Publishers, San Francisco, 1992. The book presents current research that defines the moral environment found in public management, examines how and why thinking about government ethics needs to be revitalized, and offers theoretical strategies to bring that renewal to fruition.

Denhardt, Kathryn G. *The Ethics of Public Service: Resolving Moral Dilemmas in Public Organizations.* Greenwood Press, New York, 1988.

Dworkin, Ronald. *A Matter of Principle.* Harvard University Press, Cambridge, MA, 1985.

Elliott, Kimberly Ann, ed. *Corruption and the Global Economy.* Institute for International Economics, Washington, D.C., 1997. In some parts of the world, corruption threatens to slow or reverse trends toward democratization and international economic integration.

Ethics in Action Training Package. Washington, D.C.: International City/County Management Association, 1999. Designed to help local government leaders and staff explore ethics issues together. Using case studies, exercises, real local government examples, and mini lectures, the training package addresses how all staff can make ethical decisions all the time and how to build and maintain an ethical local government.

Fisher, Roger, Elizabeth Kopelman, and Andrea Kupfer Schneider. *Beyond Machiavelli: Tools for Coping with Conflict.* Harvard University Press, 1994. The authors look systematically at what is wrong with the world, present a theory on how conflicts ought to be handled, and suggest practical skills for bringing that theory to bear on the real world. They bring a perspective that is applicable on the world stage, and at the dinner table.

Fisher, Roger, and William Ury. *Getting to Yes: Negotiating Agreement without Giving In.* Houghton Mifflin Company, 1981. What is the best way for people to deal with their differences? Being respectful, and separating the people from the problem goes a long way.

Glazer, M.P., et al. *The Whistleblowers: Exploring Corruption in Government and Industry.* Basic Books, New York, 1989.

Institute for Local Government, *Ethics Law Compliance Best Practices, A Check List,* 2005. See http://www.cacities.org/resource_files/23862.finalcompliancebooklet.pdf

Kellar, Elizabeth K., ed. *Ethical Insight, Ethical Action: Perspectives for the Local Government Manager.* Washington, D.C.: International City/County Management Association, 1988. The book covers the inevitable tensions between personal and organizational ethics, and several of the articles deal specifically with the nature of responsibility in public organizations.

Kellar, Elizabeth K., and Mary Slawson. *Ethos: Multimedia Ethics Training for Local Governments CD-ROM*. Washington, D.C.: International City/ County Management Association, 1999. An interactive training program featuring 21 real-life ethics scenarios with options for resolutions. The participant watches a scenario, chooses a response, and learns the preferred response.

Lewis, Carol W. *The Ethics Challenge in Public Service: A Problem-Solving Guide.* Jossey-Bass Publishers, San Francisco, 1991. The author offers practical tools and techniques that public managers can use in making ethical choices in the ambiguous, pressured world of public service.

Lewis, Carol W. *Scruples & Scandals: A Handbook on Public Service Ethics for State and Local Government Officials and Employees in Connecticut.* The Institute of Public Service and the Institute of Urban Research, The University of Connecticut, 1986. The book looks further than Connecticut, and is meant to provide a useful, practical examination of the formal procedures and processes by which we seek to encourage, if not ensure, "good" or "right" behavior.

McCollough, Thomas E. *The Moral Imagination and Public Life: Raising the Ethical Question.* Chatham House Publishers, Chatham, NJ, 1991.

Richter, William L., Frances Burke and Jameson W. Doig, eds. *Combating Corruption, Encouraging Ethics: A Sourcebook for Public Service Ethics*. American Society for Public Administration, Washington, D.C., 1990.

Sabato, Larry J., and Glenn R. Simpson. *Dirty Little Secrets: The Persistence of Corruption in American Politics.* Times Books, New York, 1996.

Salkin, Patricia E., ed. *Ethical Standards in the Public Sector: A Guide for Government Lawyers, Clients, and Public Officials.* Section of State and Local Government Law, American Bar Association, 1999. The book is a compilation of essays, articles, and research, intended to help government lawyers focus on some of the ethical considerations that arise in the practice of law in the public sector.

Speers, JoAnne, *2000-2006: A California Ethics Odyssey.* A report distributed by the International Municipal Lawyers Association at its 2006 Mid Year Seminar held April 23-25, 2006 in Washington, D.C.

Steinberg, Sheldon S., and David T. Austern. *Government, Ethics, and Managers: A Guide to Solving Ethical Dilemmas in the Public Sector.* Praeger, New York, 1990.

Zimmerman, Joseph. *Curbing Unethical Behavior in Government.* Greenwood Press, Westport, Connecticut, 1994. The book stresses the importance of action to ensure open government as a deterrent to improper conduct, a facilitator for its detection, and a promoter of a moralistic political culture.

Appendix E:
Professional Associations' Codes of Ethics

American Association of School Administrators
aasa.org

American Institute of Certified Planners
planning.org

American Planning Association
planning.org

American Public Works Association
(Standards of Professional Conduct)
apwa.net

American Water Works Association
(Members' Code of Practice, and Policy on Conflicts of Interest)
awwa.org

Association of Government Accountants
agacgfm.org

Government Finance Officers Association
gfoa.org

International Association of Assessing Officers
iaao.org

International Association of Chiefs of Police
(Also at ethics.iit.edu/codes)
theiacp.org

International City/County Management Association
icma.org

Michigan Association of Planning
planningmi.org

Michigan Government Finance Officers Association
migfoa.org

Michigan Local Government Management Association (adopted the ICMA Code of Ethics)
mlgma.org

Michigan Municipal Treasurers Association
(Code of Professional Ethics)
mmta-mi.org/pdf/profcodeethics

National School Boards Association
nsba.org

State Bar of Michigan
Rules of Professional Conduct
Code of Judicial Conduct
michbar.org

michigan municipal league

Better Communities. Better Michigan.

giffels webster

Planning Commission Training Workshop

Overview

- Planning Commission Roles and Responsibilities
- Types of Reviews
- Meetings
- Zoning Board of Appeals Roles and Responsibilities
- Role of the City Council
- Planning Commission Etiquette

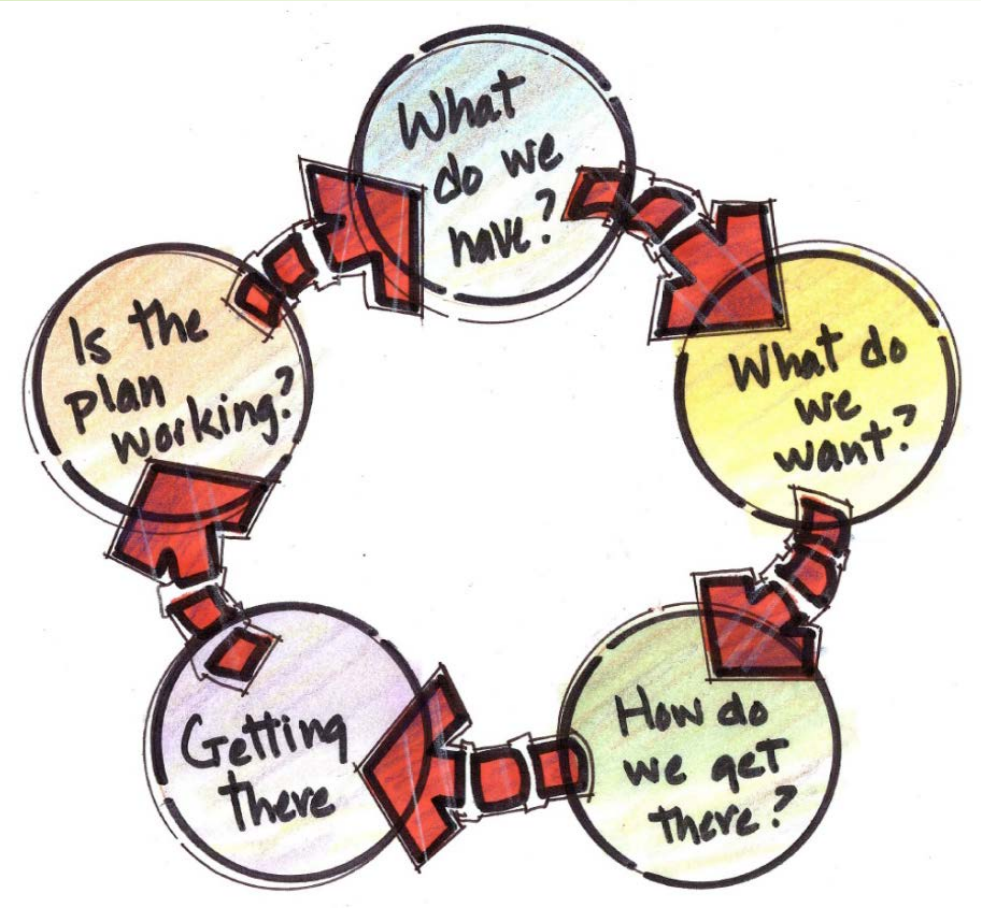
What is Community Planning?

A **process** for coordinating the impacts that people and their activities have on the physical and social environment in which they live.

Why Do We Plan?

- To ensure that quality of life is maintained and improved
- There is a shared vision for the future of the community
- Property rights are protected
- Appropriate economic development is supported and encouraged
- More certainty about developments

The Planning Process



- What do we have? (Research & Analysis)
- What do we want? (Visioning & Goal Setting)
- How do we get there? (The Plan)
- Getting there (Implementation)
- Is the plan working? (Plan Monitoring)

Planning Commission Roles and Responsibilities

Statutory Authority for Creation of a Planning Commission

The Michigan Planning Enabling Act – PA 33 of 2008:

A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in this act.

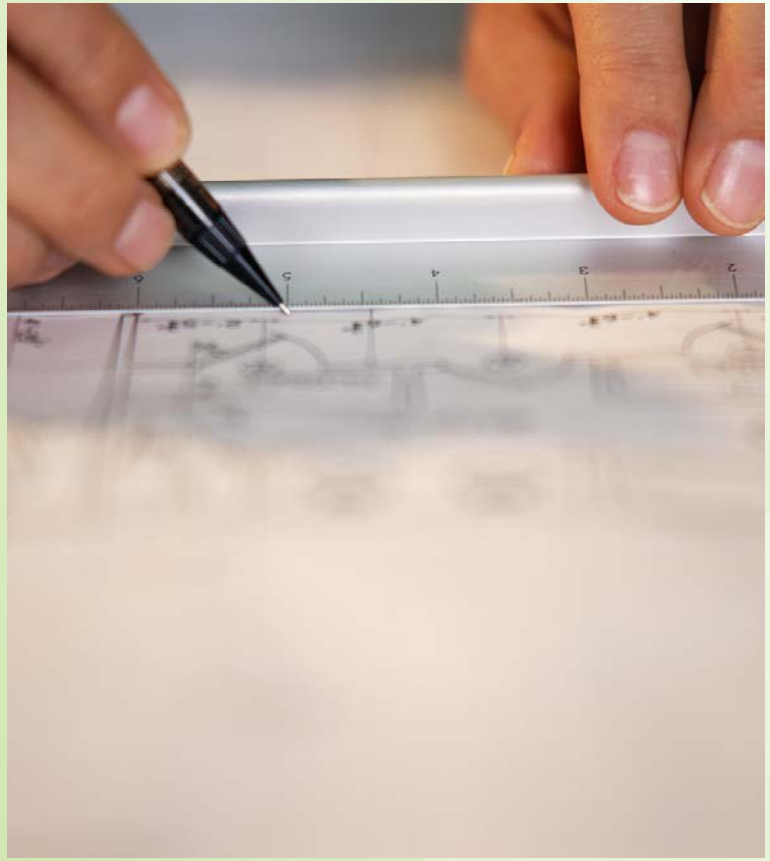
The Michigan Zoning Enabling Act - PA 110 of 2006:

Provides City Council to confer other duties of an administrative nature on the planning commission.

Planning Commission Key Responsibilities

- Create, maintain and update general development plan (master plan)
- Review rezoning requests from applicants
- Initiate zoning map amendments
- Initiate zoning text amendments

Planning Commission Key Responsibilities



- Special land use and planned development approval
- Site plan approval
- Subdivision plat review
- Capital improvements programming
- Review of public works proposals and new streets

Formation and Function

Creation

By resolution of the governing body

Membership

- 5, 7 or 9 members, as determined by above resolution
- Representative of important segments of the community, such as economic, governmental, educational, and social development …and major interests such as recreation, education, public health, commerce, transportation, and industry

Formation and Function

Appointment	• Chief elected official shall appoint members of the planning commission, subject to approval by a majority vote of the members of the legislative body
Term of Appointment	• Three years, staggered so they do not all expire at the same time
Adoption of Plans	• Cities/villages: by 2/3 majority vote of PC, may adopt plan as a whole, or may adopt successive parts, by successive resolutions. • Board or council may grant itself the right to adopt the plan by resolution

Formation and Function

Commission Employees	• Legislative body may employ a planning director, other planning personnel, and consultants.
Meetings	• At least 4 regular meetings each year; additional meetings may be called by the Chairperson or by any 2 members, upon written request to the secretary • All meetings shall be open to the public
Cancelling Meetings	• A regularly scheduled meeting may be cancelled for lack of an agenda, provided that notice is posted at the location of the meeting no less than 18 hours before the scheduled start of the meeting. Minimum of 4 annual meetings must be met.

Formation and Function

Rules of Procedure

- Shall adopt rules for the transaction of business (Commission By-Laws)

Public Record

- Shall keep a public record of its resolutions, transactions, findings, and determinations (usually incorporated as a part of the minutes of each commission meeting)

Preparation and Adoption of a Master Plan

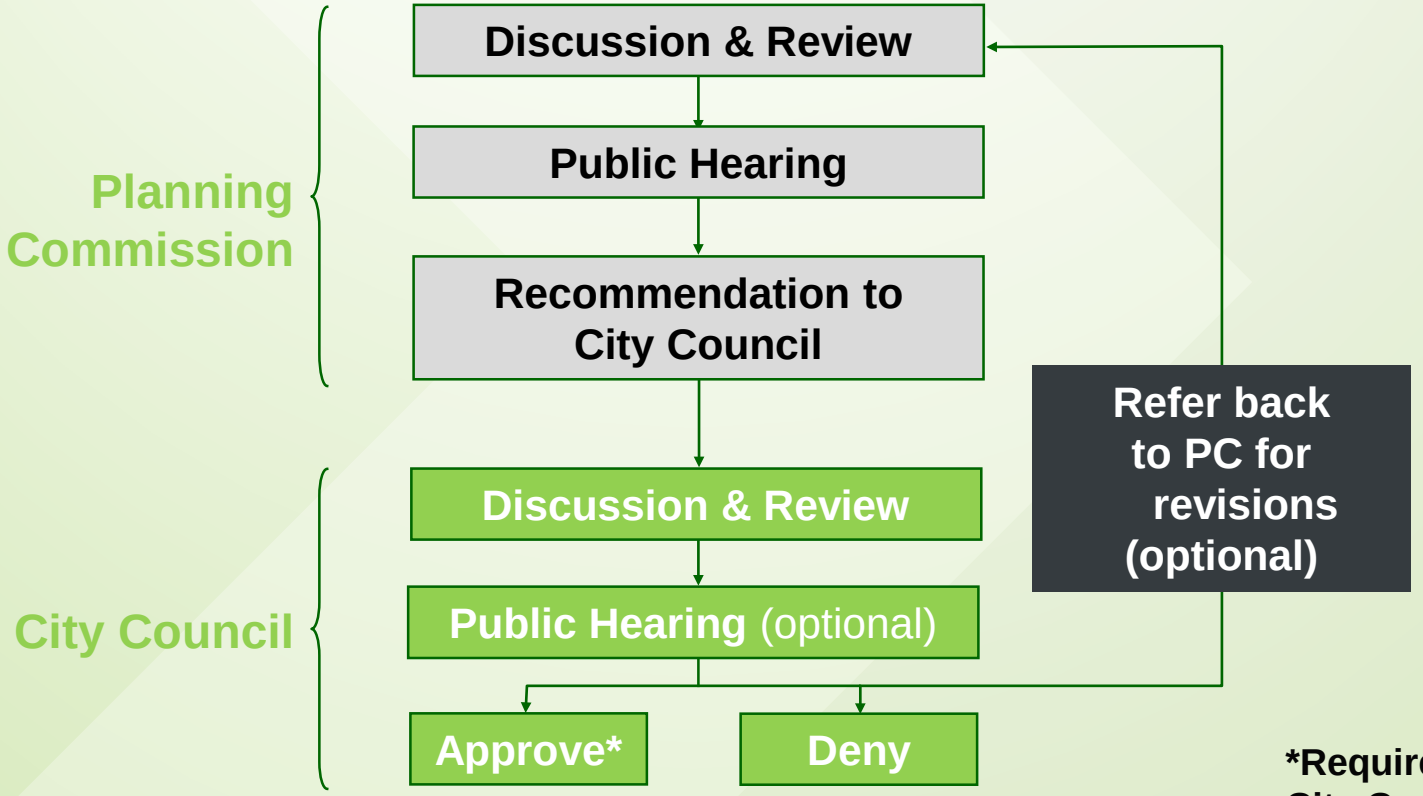
The most important duty of a Planning Commission is the preparation, maintenance, and updating of the community master plan.

- Authority to prepare and adopt the Master Plan is vested with the Planning Commission
- Public hearing required prior to adoption
- Final approval lies with the Planning Commission; no further approval from local government is necessary, unless local legislative body confers this power on itself by resolution.
- Coordinated review required, input from neighboring communities and County prior to public hearing

Preparation of a Zoning Ordinance

- Michigan Zoning Enabling Act provides legal authority to enact a zoning ordinance
- Planning Commission drafts the ordinance text and zoning map, must be based on the master plan
- Must hold a public hearing prior to recommending adoption by the governing body
- Same process is followed for all text and map amendments

Zoning Ordinance Adoption Process

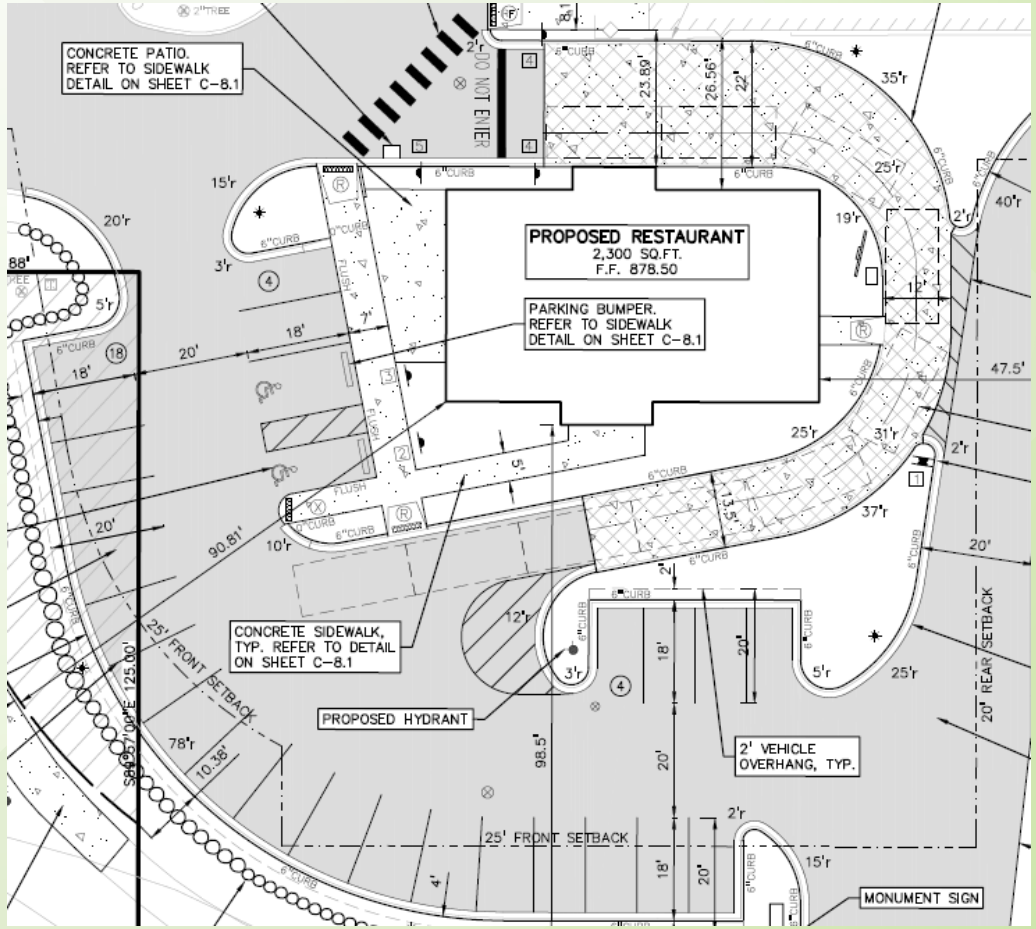


*Requires majority vote of City Council members

Development Reviews

Types of Development Reviews

- Site Plan Review
- Special Land Use (SLU) Review
- Rezoning Review
- Public Works Proposals
- Planned Unit Development (PUD)
  (Not a type of review permitted in Lathrup Village)
- Subdivisions/Condominiums
- Land Divisions
- Cluster Housing



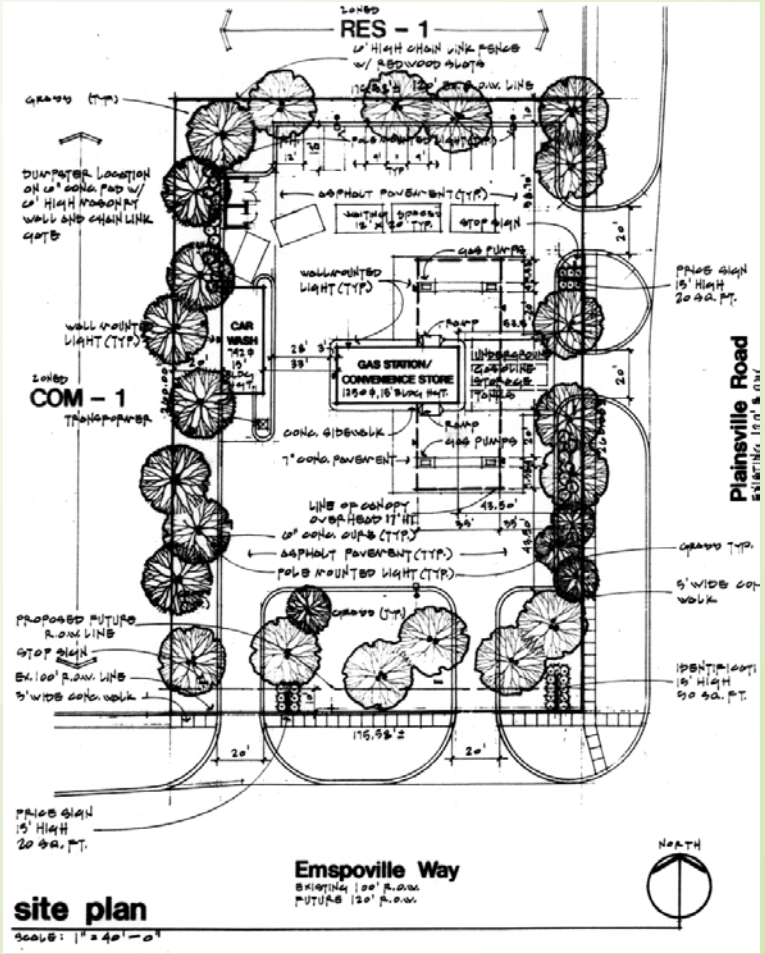
Development Reviews



- Zoning Ordinance establishes site plan approval authority
- All SLUs require a site plan
- The City Council shall refer plats to the PC for tentative preliminary plat approval prior to final approval

Site Plan Review

A site plan is a detailed graphic and written document that shows how a site will be developed



Site Plan Review: Criteria

- Review standards and criteria must be specified in Zoning Ordinance
- Three types of standards:

  Plan Content (Information required to be on site plans)

  Discretionary (“Façades shall be harmonious with the area”)

  Nondiscretionary (“Sidewalks shall be 5’ wide”)

Site Plan Review: Criteria

- Key question: Does the site plan demonstrate conformance with all ordinance requirements?
- If ordinance standards are met, approval *must* be given
- Site plans can be approved with conditions, but conditions must be related to meeting a specific ordinance standard

Postponing Action on a Site Plan

Decisions on site plans can be postponed for the following reasons:

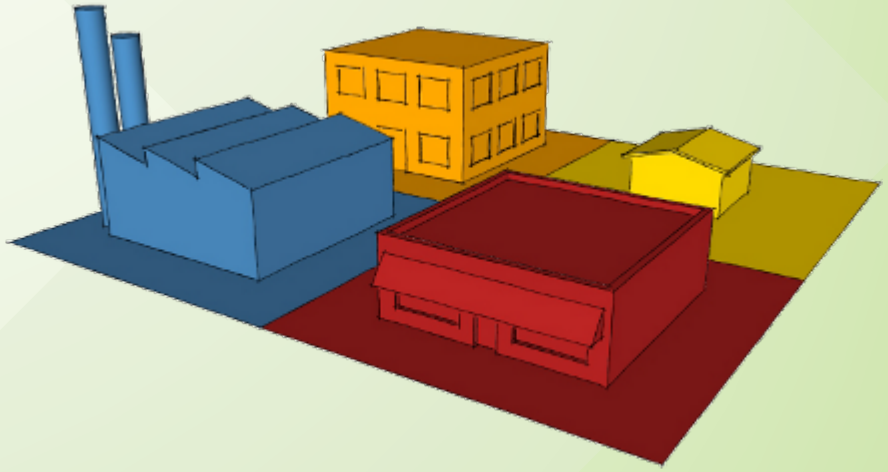
1. Incomplete application
2. Extensive changes necessary to comply with ordinance standards
3. Applicant requests delay in writing
4. When necessary information from an agency or the applicant has not been received

Postponing is not appropriate for minor site plan changes or information from other agencies that can be handled as conditions of approval.

A motion to **postpone** is needed. May be tabled if it is to be brought back later in the same meeting.

Special Land Use Review

- Special land uses are those uses which may be compatible with permitted uses in the district, but which possess characteristics or qualities which require individual review
- Due to their unique or possible negative characteristics, special land uses are reviewed in more detail to ensure compatibility with adjacent properties, and to minimize negative impacts on the community
- Special land uses **may not be appropriate** at all locations within a given district



Special Land Use Review

- Initiated by applicant
- The Zoning Ordinance must list which uses are special land uses
- The Zoning Ordinance must specify the standards for approval of special land uses, as well as review procedures and required application materials
- All special land use applications must be accompanied by a site plan
- Public hearing is required with 15-day notice

Special Land Use Review

- The Planning Commission is often the body responsible for special land use review and approval
- In Lathrup Village, special land uses are reviewed by the Planning Commission and final action is taken by City Council
- The Zoning Ordinance may also permit approval of special land uses by an administrative official.

Special Land Use Review

Conditions imposed on approval of a special land use must be:

1. Reasonable
2. Designed to protect natural resources, persons who will use the land, adjacent landowners and residents, and/or the community as a whole
3. Related to the valid exercise of police power
4. Necessary to meet the intent and purpose of the Zoning Ordinance
5. Related to the standards in the ordinance and necessary to ensure compliance with those standards

Rezoning Review: The Players

- Applicant/Property Owner and Representatives
- Planning Commission
- Planners
- The Public
- City Council

Rezoning Review: Criteria

- Is the rezoning consistent with the Master Plan, or with changes since its adoption?
- What impact would the rezoning have on public services, utilities and natural features?
- Can the property be developed or used as zoned?
- Is the proposed zoning and use compatible with surrounding uses?
- Will the proposed zoning place a greater burden on nearby thoroughfares?
- Is there other land currently available for this use?

Rezoning Review: Criteria

- Will the proposed use be able to meet the requirements of the new zoning district?
- Is rezoning the best option, or could the existing district be amended?
- Would granting the request result in the creation of an unplanned spot zone?
- Would rezoning grant a special benefit to the applicant?

Review of Public Works Proposals

A street; square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission.

Review of Public Works Proposals

The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a majority vote of the membership.

Michigan Planning Enabling Act (Act 33 of 2008, as amended)

- Planning Commission has 35 days to act upon a proposal or it is deemed approved.

Capital Improvements Programming



MPEA: Planning commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements, unless the planning commission is exempted from this requirement by charter or otherwise.

The MPEA has additional provisions if the planning commission is exempted.

What is a CIP?

The CIP is a schedule of proposed improvements to a community's public facilities.

- Projects are prioritized across the entire community and over time.
- The CIP covers a 6 year period.
- It is updated annually.
- The first year of a CIP is the **capital budget.**

Examples of Capital Improvements

- City Halls
- Courthouses, Jails
- Fire/Police Stations
- Libraries
- Parks
- Streets, Roads, Sidewalks
- Parking Lots & Structures
- Sewer (Sanitary & Storm) & Water





Examples of Capital Improvements

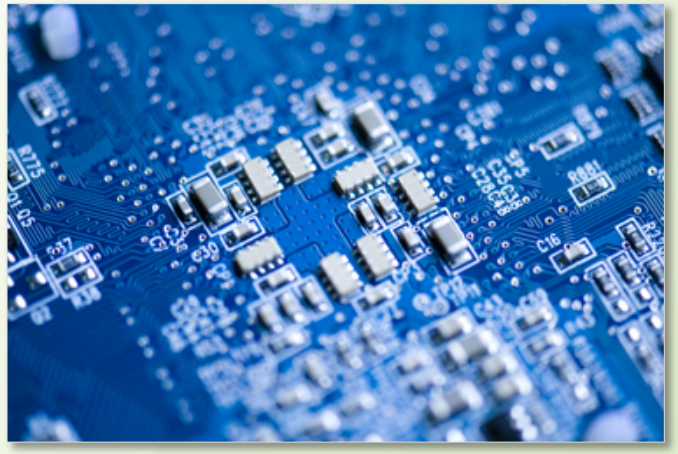
- Hospitals
- Land Purchases
- Street Lighting
- Major building additions
- Airports
- Disposal Sites & Equipment
- Recreation Buildings
- Swimming Pools





Examples that MAY be Capital Impvts

- Fire Trucks/Trash Trucks
- Road Graders/Equipment
- Computer Systems
- Parking Meters
- Police Cars
- Street & Road Reconstruction
- Playground Equipment
- Public Safety Radio/Communication Systems



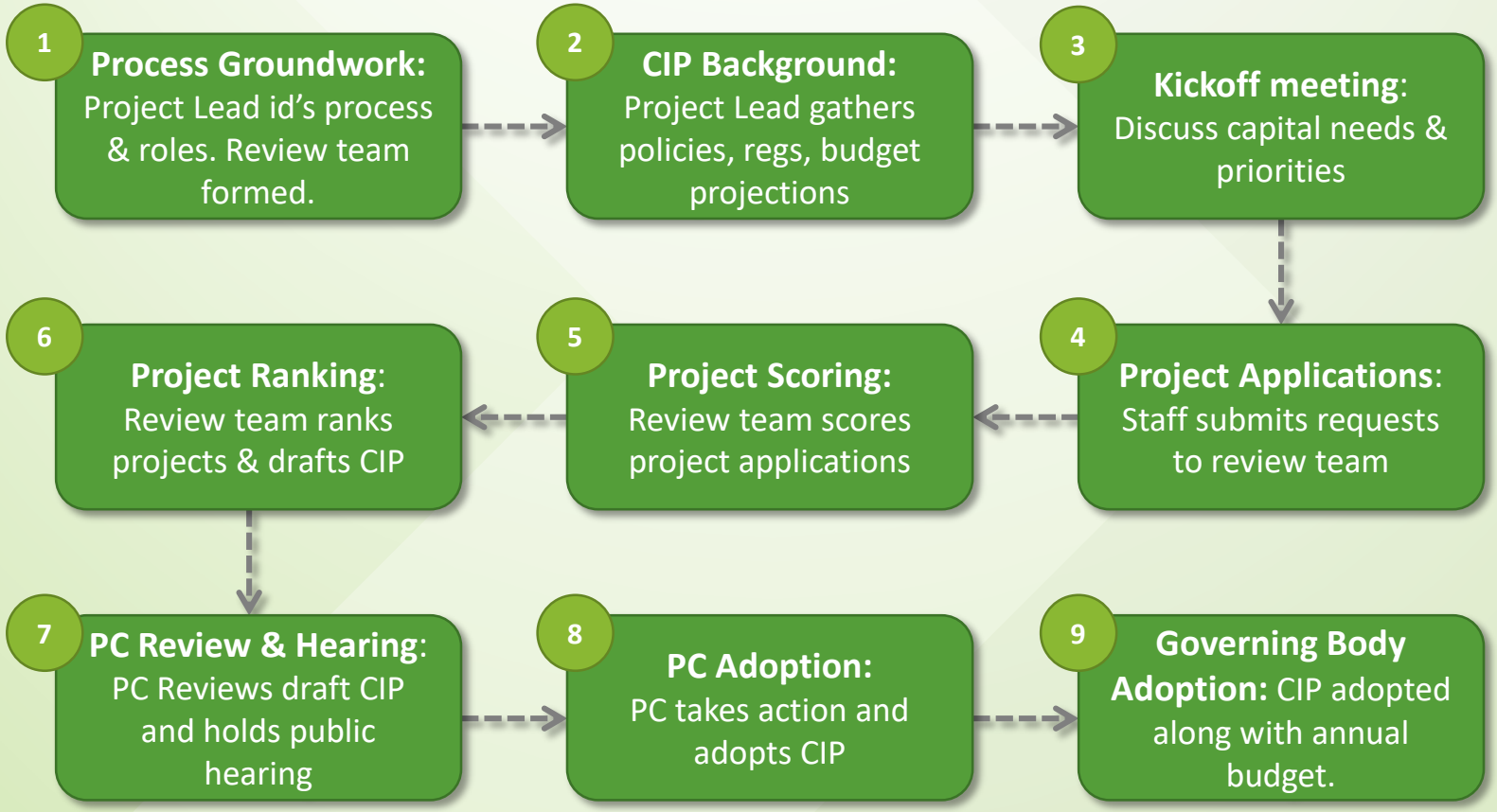


Examples of Operating Expenses
(Not Capital Improvements)

- Office Furniture
- Library Books
- Fire Hoses
- Lawn Mowers
- Pothole Repairs
- Road Gravel
- Office Machines (computers, copiers etc.)



Preparing a CIP



Ranking Projects

Every community should create its own set of ranking criteria by which to assess various projects. Sample criteria could include:

- Contributes to health, safety and welfare
- Needed to comply with local, state or federal law
- Remediates an existing or projected deficiency
- Reduces future costs
- Implements the master plan
- Protects natural resources
- Supports the local economy
- Delivers level of service desired by community

Funding – Local Sources

Local Resources

- General Funds
- Bonds
- Millage
- TIF
- Fees



Meetings

Open Meetings Act

The Open Meetings Act (OMA) is a mechanism to promote government transparency. The open meetings act requires that a meeting of a public body must be made open to the public. Therefore, this requires that:

- All decisions by the public body must be made in a meeting open to the public.
- All meetings must be accessible to the general public with reasonable accommodations, with ample notification, and include a segment where public comments can be heard. All deliberations of a public body in quorum shall take place at a public meeting with limited exceptions.
- The public may make audio or video recordings of all meetings.

Conducting Planning Commission Meetings

1. All meetings must be in compliance with the Open Meetings Act
2. PC should conduct business according to their adopted Planning Commission Bylaws
3. Meetings should begin on time and follow the written agenda
4. All comments should be directed through the Chairperson
5. All deliberations should be in the open
6. Do not hold private conferences during the meeting
7. Express your opinions
8. Focus on conformance with ordinance standards

Role of the Planning Commission Chairperson

- Maintain order throughout the meeting
- Enforce meeting procedures
- Ensure courtesy is maintained and that the speakers are not interrupted



Guidelines for Public Hearings

- Describe ground rules first
  - Speakers must address the Chairperson
  - Comments should be brief and to the point (suggest a 3-minute limit)
  - Speakers must be courteous and respectful
  - Speakers should only address the PC one time; special requests to speak a second time may be made but are not guaranteed and should only be permitted after everyone else has been heard
- Open the floor to comments on the agenda item

Public Hearings

- Do not engage in debate with audience members
- When everyone that wants to speak has spoken one time, close the public hearing
- Once the hearing is closed, all comments should come from the PC…

  …unless the Chairperson grants permission to ask questions of the Applicant, his/her representatives, or other parties with a clear interest

Public Hearings

- If a motion is made and seconded, all comments from this point on should refer to the motion at hand
- When discussion ends, the Chairperson should repeat the motion and ask for a vote
- Once a vote is taken and the matter is concluded, the next agenda item should be presented

Hints for Orderly Public Meetings

- Print public participation rules on the back of the agenda
- Every question does not have to be answered
- If things get out of hand, take a recess
- Do not feel compelled to make a decision the night of the hearing if a postponement would lead to a more informed decision
- Remember the PC represents the interests of the entire community, not just those at the hearing
- Once the hearing is closed, the public should not be involved in the discussion (unless the PC invites them into it)

Making Motions

- Motions should include:
  - ☑ Description of the request
  - ☑ Action taken (approval, approval with conditions, denial, tabling)
  - ☑ Any conditions attached to approval
  - ☑ Reasons for action taken (particularly important for denials)
  - ☑ Reference to staff reports, when appropriate
- Be sure everyone is clear on the motion before a vote
- Chairperson should entertain only one motion at a time

Conditions

- Motions with conditions: Conditions must be:

  ☑ Reasonable

  ☑ Designed to protect natural resources, the health, safety and welfare, and the social and economic well being of users, residents, landowners, and the community

  ☑ Related to the valid exercise of police power

  ☑ Necessary to meet the intent and purpose of the ordinance

  ☑ Related to the standards in the ordinance for the proposed use and be necessary to ensure compliance

- Motion should identify who is responsible to ensure conditions are implemented.

Etiquette

E-mail Communication

Planning commissioners should be aware that communicating via email on commission matters could be a violation of the Open Meetings Act.

- In no instance should commission members exchange emails deliberating on commission items in a quorum.
- Passive comments about subject matters, including sharing opinions, between less than a quorum of members likely do not violate OMA. **However, it is best practice to not discuss commission matters outside of planning commission meetings.**
- The e-mail account you use to receive planning commission communications could be subject subject to FOIA requests (Freedom of Information Act).

Communication with Staff

- Community staff have many demands on their time
- To help keep staff focused and productive, requests for information from planning commissioners should be directed through the chairperson

Conducting Site Visits

Visiting a site can help commissioners better understand proposals and concerns during the review process.

Etiquette for site visits:

- Do not enter a site without written permission from the property owners
- If granted permission, schedule prior to the public hearing. If a quorum of planning commissioners is attending, provide public notice.
- Avoid *ex parte* communications when possible
- When on site, look closely at key conditions and surroundings

Giving an Interview

You may be approached by media to provide comment or give an interview on a planning issue you may be involved in.

Before responding to an issue, ask yourself:

1. **Am I able to respond?** Consult your community's administration before responding.
2. **Is responding ethical?** Never provide commentary on open cases or how you or other members may vote.

Giving an Interview

Take the time to think about how you want to respond. **It is important to come up with one key message per issue, and make that the focus of your responses.**

- Avoid using jargon
- Don’t feel the need to fill the silence
- Stick to your key message(s)
- Don’t be afraid to say that you cannot or do not want to comment on a particular issue
- Feel free to refer interviewers to the chairperson

Conflicts of Interest

- In serving the community in which one lives and may work, conflicts of interest may arise.
- **If there is a remote possibility that a decision will benefit a commissioner personally, tell fellow commissioners about the conflict and ask to be allowed to abstain from the vote.**
- If unsure as to whether to recuse oneself, consult the community's attorney. If you stand to benefit financially from any outcome of a case, there is a conflict of interest and you must recuse yourself from deliberations.
- Potential conflicts: You are the applicant or a close friend, family member or business associate is the applicant.

Comments and Questions

Zoning Board of Appeals Roles and Responsibilities

Zoning Board of Appeals Responsibilities

All actions of the ZBA are application-driven:

- Interpretation of zoning ordinance and/or map
- Appeals of an order or decision of an administrative official or body, such as the zoning administrator, building official, planning commission, or legislative body
- Appeals of special land use decisions when permitted by the zoning ordinance (Not permitted in LV)
- Variances from the standards of the zoning ordinance

Zoning Text Interpretation

- Official interpretations of zoning ordinance text are the sole responsibility of the ZBA (other interpretations are only “opinions”)
- Once made, interpretations become the official standard
- Interpretation guidelines:
  - ☑ Avoid broad interpretations
  - ☑ Consider past administrative decisions
  - ☑ Consider history of relevant text / intent
  - ☑ Only interpret what is requested
  - ☑ Seek planning and legal advice as needed
  - ☑ If appropriate, direct applicant to seek an ordinance amendment
- Keep good records!

Administrative Appeals

- Appeals to decisions regarding zoning ordinance issues are responsibility of ZBA
- Appeals must be based on the record
- Decision guidelines:
  - ☑ Base all decisions on the record of the decision or action being appealed
  - ☑ Don’t substitute ZBA’s judgment for the judgment of the entity being appealed
  - ☑ Limit ruling on appeal to whether the original decision constituted a breach of duty or discretionary power
  - ☑ Only address the appeal that is requested
  - ☑ Seek planning and legal advice as needed

Non-Use Variances

Proof of practical difficulty is required:

- ☑ Is the problem self-created?
- ☑ Do unique circumstances exist?
- ☑ Would strict compliance with the ordinance prevent the owner from using his/her property?
- ☑ Will a lesser variance than requested give substantial relief to the owner and be consistent with justice to other property owners?
- ☑ Will the spirit of the zoning ordinance be observed, public safety secured, and substantial justice done?

Non-Use Variances

Other considerations:

- ☑ Is the request consistent with the character of the area?
- ☑ Would the variance confer a special privilege?
- ☑ Is the variance request the minimum necessary to allow reasonable use of the property?
- ☑ Are there alternatives which would minimize or eliminate the need for a variance?

Use Variances

A use variance permits a use not otherwise permitted in a district.

☑ Cities and villages may grant use variances.

☑ Townships may only grant use variances if their zoning ordinance specifically established that power prior to February 15, 2006, or if any use variances were granted prior to that date.

☑ The applicant must show that the strict application of the ordinance would result in unnecessary hardship.

Administrative Details of the ZBA

- Concurring vote of the majority of ZBA members is required to pass a motion
- Appeals to any decision of the ZBA are taken by the circuit court
- Rehearing of the same case by the ZBA after a denial cannot occur unless there is a substantive change in the requested variance or appeal

ZBA – Final Thoughts

- ZBAs are a powerful appointed board in local government
- ZBA decisions can make or break a community's planning and zoning efforts
- ZBA decisions can affect the character of an area or the entire city
- ZBAs need on-going training and assistance to do their job correctly
- **As a general rule, a ZBA should grant few variance requests; a variance is not simply a means to skirting the zoning ordinance.**
  - ***If the ZBA finds repeated issues or larger concerns with zoning language, it is appropriate for the ZBA to communicate those concerns to the Planning Commission.***

Role of the City Council

- Appoint members to the PC
- In Lathrup Village, serves as the ZBA
- Adopt Zoning Ordinance text and map
- Approve / deny rezoning requests
- Approve / deny proposed text amendments
- Final approval of SLUs, subdivisions
- Ensure on-going training for staff, PC and ZBA

Comments and Questions