



BANGOR PLANNING COMMISSION REGULAR MEETING AGENDA

Date: March 13, 2025 Time: 7:00 PM

Location: 257 W Monroe St Bangor, MI 49013

City PC meetings are conducted in accordance with Michigan's Open Meeting Act (OMA), 1976 PA 267, MCL 15.261 et seq. and Roberts Rules of Order Newly Revised.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call of Planning Commission Members
4. Approval of Agenda
5. Approval of Meeting Minutes
 - a. Meeting minutes from February 13th, 2025
6. Unfinished Business/Postponed Items
 - a. Review edited Bylaws.
 - b. Accept Bylaws. ✓
 - c. Review the need for a Master Plan. ✓
7. New Business
 - a. Information from County Commissioner Kurt Doroh. ✓
 - b. Master Plan Update and Information ✓
 - c. SUP 20 E. Monroe ✓
8. Comments/Concerns from the Audience/Public
 - A limit of three (3) minutes per speaker is in effect.

next month meeting Date
Canceled April meeting
9. Planning Commission Members Closing Comments
10. Adjournment

7:36

Agenda items might be added or removed as necessary after publication deadline

Duke Zerning class?

*The purpose of the public comment periods are for members of the public to inform the council of their views. Traditionally, Council does not respond to comments made at the meeting; however, the Mayor or City Manager may direct staff to follow up with the speaker as appropriate. Public and council comments are not required to be recorded. "Meeting Minutes are a record of what was done, not what was said" - Roberts Rules of Order Newly Revised (RONR)

Bangor Planning Commission
Meeting Minutes
February 13, 2025
257 W. Monroe Street
Bangor Michigan 49013

1. **Call To Order:** Meeting called to order by Mayor Lynne Farmer.
2. **Pledge of Allegiance:** Pledge started by Jeremy Uplinger and recited by all present.
3. **Roll Call:** Present: Deep Babcock, Adam Burrous, Lynne Farmer, Carla Gray, Kevin Gruetzmacher, Dave Markel, Kathryn Lugten, Jeremy Uplinger. Absent: Yvonne Beasley.
4. **Approval of the Agenda:** Motion by Derek to accept the agenda as presented. Support by Carla Gray. Motion Carried.
5. **Approval of the Minutes:** No Minutes to approve.
6. **Regular Business:**
 - a.i) Introduction of Derek Babcock as new member. (City Manager Weber)
 - ii) Introduction of Kathryn Lugten as new member. (City Manager Weber)
 - b. Appointment of Officers of the Planning Commission.
 - i) Appointment of Chairperson: Nominations opened from the floor. Adam Burrous and Derek Babcock nominated. Adam Burrous with-drew his name. Motion by Adam Burrous to appoint Derek Babcock Chairperson. Support by Jeremy Uplinger. **Roll Call vote: Ayes:** Adam B., Lynne F., Carla G., Kevin G., Kathryn

L., Jeremy U. **Nays:** none. **Absent:** *Yvonne Beasley*. Motion Carried.

ii) Nominations for Vice Chair. Chief Babcock made the motion to appoint Dave Markel as vice chair. Support by Carla Gray. **Roll Call Vote: Ayes:** Adam B., Derek B., Lynne F., Carla G., Kevin G., Kathryn L., and Jeremy U. **Nays:** None. **Absent:** *Yvonne Beasley*. Motion Carried.

iii) Motion by Derek Babcock to appoint Kathryn Lugten secretary. Support by Dave Markel. **Roll Call Vote: Ayes:** Derek B., Adam B., Lynne Farmer, Carla G., Kevin G., Dave M., and Jeremy U. **Nays:** None. **Absent:** *Yvonne Beasley*. Motion Carried.

7. Unfinished Business: Chair turned over to Chief Babcock to complete the meeting.

a. Review General Information for Planning Commission members. Chief Babcock led the discussion on the information in the packet. Dave Markel made the motion to change “delivered “to “e-mail “and change board numerous to 7 through attrition. Support by Carla Gray. Motion Carried.

b. Review Draft Bylaws: Discussion followed. Dave Markel made the motion to change Page 3B to 4 members for a quorum, Page 3 G change for 6 to 5. Amendments B from 6 to 5, Page 6 remove Section A, Page 6 B change for 5 minutes to 3 Citizen Comments. Sent the draft By Laws to City Attorney with the correction above for approval. Support Jeremy Uplinger. Motion Carried.

c. Review of the City’s Master Plan. Discussion followed. City Manager Weber will try to find the City Master Plan. Building Inspector Bill Snyder told the committee that Bangor was not the only city that needed an update to their master plan. He stated that this plan should be updated every 10 years. He suggested that when we find the plan that it be sent to a Master Plan company. He said this process could take up to one year. He stated that the City is required to have a Master Plan. A copy of the new plan will then be

sent to the Van Buren County Clerk. He spoke of the Code Book that the City is required to have is updated every 10 years. A new book is coming out this year.

8. New Business:

a. Chief Babcock asked all committee members to read the MML Planning Commissioners Handbook.

b. Meeting Schedule for 2025. Discussion followed about dates and times. Jeremy Uplinger moved and Dave Markel supported A motion to keep the dates as the 2nd Thursday of the month at 7:00 PM at City Hall. Motion Carried.

It was pointed out that deputy Clerk ,Amanda Karr ,made a new flow chart to be given to citizens needing building permits in the City of Bangor.

Discussion included: Officer Drake does all the zoning, and then he calls Bill Snyder, the building inspector.

Discussion followed on how to determine property lines. Bill Snyder recommended a program that does a wonderful job of this.

9. Comments/Concerns from the Audience/Public: No comments were made.

10. Adjournment: Motion by Dave Markel to adjourn the meeting at 7:50 PM. Support by Jeremy Uplinger. Motion Carried.

Respectfully Submitted by Lynne M. Farmer

PLANNING COMMISSION FOR THE CITY OF BANGOR, MICHIGAN **PLANNING COMMISSION BYLAWS**

I. PURPOSE:

These Planning Commission (sometimes "PC") bylaws are adopted to establish the rules of operation for the PC so that matters coming before the PC can be handled promptly and efficiently.

II. AUTHORITY AND JURISDICTION:

The City Planning Commission derives its authority from Michigan law, the City Charter, and the City Zoning Ordinance. This authority provides that the City Planning Commission shall have in part the powers and duties authorized and directed by the Michigan Zoning Enabling Act (P.A. 12 of 2008 as amended), and the Michigan Planning Enabling Act (P.A. 33 of 2008 as amended).

III. OFFICERS:

A Chairperson, Vice-Chairperson, and Secretary shall be elected by majority vote of the members of the PC every year at the first regular meeting in the month of January. The PC Chairperson is authorized to appoint other officers as that the PC determines to be appropriate.

A. Chairperson: The Chairperson shall preside at all meetings, shall appoint persons to committees that are authorized by the Commission, and may serve as an ex-officio member of such committees. The Chairperson, subject to these rules, shall decide all points of order or procedure, subject to appeal by a member of the Commission. The vote of a majority of members, including the Chairperson, shall decide the appeal. In the event an appeal is taken by any member from the ruling of the presiding officer, the Commissioner desiring to appeal shall state that a claim of appeal is being taken and shall state briefly what in that Commissioner's opinion the ruling should have been. If this appeal is seconded, the recording secretary shall state clearly the question at issue, and then shall call for the vote of the Commission on the question: "Shall the decision of the presiding officer be sustained?" Such decision shall be final and shall be binding on the presiding officer.

B. Vice-Chairperson: The Vice-Chairperson shall preside and exercise all of the duties of the Chairperson in his or her absence.

C. Presiding Officer: Should neither the Chairperson, nor the Vice-Chairperson be present at a meeting, any member may call the meeting to order and immediately proceed to call a special election to elect a temporary Chairperson who shall preside over the meeting. The election of a temporary Chairperson shall follow the process outlined in Item F. and the role of the temporary Chairperson shall terminate upon the adjournment of the meeting.

D. Secretary: The Secretary shall record the meeting minutes, unless delegated to staff.

E. Vacancies: In the event that an officer shall leave the Commission before the expiration of his or her term, an individual shall be appointed to the vacancy in the same manner for Planning Commission appointments as defined by City ordinance.

F. Election of Officers: The process for the election of officers shall be as follows:

1. The current Chairperson or temporary Chairperson presides over the election of the officers.

2. The Chairperson declares the nominations are open for offices in the following order:
Chairperson, Vice-Chairperson, and Secretary.

3. Nominations: Any member of the Planning Commission may nominate. To do so:

- a. Members of the Planning Commission should raise their hand if they wish to make a nomination. Planning Commissioners will be called on in the order they raised their hand to ensure proper order of nominations.
- b. The Planning Commissioner may state their nomination.
Nominations are not required to be seconded.

c. After being nominated, the nominee shall accept or reject the nomination.

4. Close of Nominations:

a. After a reasonable period of time, the Chairperson will then entertain a motion to close nominations.

b. The motion to close nominations must be seconded.

c. The motion to close nominations must pass by 2/3 affirmative vote and is not debatable.

5. Vote on Nominations:

a. The Chairperson shall call for a vote on nominee(s) individually, in the order that nominations were made.

b. The first nominee who receives the majority of votes is elected for that office.

IV. MEETINGS:

A. All Commission meetings shall be open to the public.

B. A quorum of four (4) members must be present to constitute an official meeting of the Commission.

C. The conduct of the Planning Commission business shall be governed by the current edition of Robert's Rules of Order unless otherwise modified by law, ordinance, or these rules of the Planning Commission. For example, based on state law, all members, including the Chairperson, shall be authorized to make and support motions and shall vote on all questions.

D. The regular meetings of the Commission shall be held on the second Thursday of each month, except when such Thursday falls on a legal holiday or conflicts with the City Commission meeting schedule.

E. All regular meetings shall begin at 7:00 p.m. unless otherwise noticed by the PC.

F. A special meeting of the Commission may be called by the City Manager, the Chairperson, the Vice-Chairperson in the event the Chairperson is unavailable, or any three members of the Commission. Each member of the Commission must receive at least eighteen (18) hours' notice as to the time, place and purpose of the meeting via email to the Commissioners' City-issued email addresses, except that the announcement of a special meeting at a time at which all members are present shall be sufficient notice of such meeting. In the event a request to call a Special Meeting is initiated by a member of the Commission other than the Chairperson, or Vice Chairperson in the event the Chairperson is unavailable, the initiating Commissioner shall submit a written request to City Clerk and the City Manager requesting the Special Meeting. The request shall contain the item(s) to be considered. The City Clerk shall then forward the request within two business days to the Commission and request if there are two (2) additional Commissioners who would like to call the Special Meeting; and any Commissioner who would like to join in making the request shall respond directly to the City Clerk.

G. The City Manager and the Chairperson shall prepare meeting agendas. The City Manager or any member of the Commission may place items on the agenda. Items to be placed on the agenda by a member of the Commission shall be submitted at least ten (10) calendar days in advance of the given meeting, unless for a Special Meeting called for a specific purpose in accordance with these bylaws. The agenda shall be sent to Commissioners no later than on the Thursday preceding the regularly scheduled meeting. The Commission shall only consider the items listed on the originally released agenda, unless five (5) members of the Planning Commission, by affirmative vote, suspend this rule to add an item to the agenda.

V. VOTES:

- A.** All proceedings, decisions and resolutions of the Commission shall be initiated by motion. The vote upon motions and resolutions may be recorded by roll-call vote. All members, including the Chairperson, shall vote on each motion unless they have stated there is a conflict of interest, or the appearance of a conflict of interest, as defined in these bylaws.
- B.** The concurring vote of a majority of members present at a regular or special meeting shall be necessary to pass on any matter referred to them.

- C. The adoption of a master plan, or of any such part, amendment, extension or addition shall require the concurring vote of 2/3 of the members of the Commission.

VI. CONFLICT OF INTEREST:

Upon disclosure of a conflict of interest the member may recuse themselves from voting on the issue or participating in the making of a decision. If a conflict of interest exists, the member shall not participate in discussion on the item.

- A. Appearance of Conflict. An appearance of a conflict exists when a reasonable person would believe that because of certain facts a Planning Commissioner's participation in a proceeding would create an appearance of impropriety, partiality, bias or lack of fairness.

- B. Contractual Conflicts of Interest. The conduct of City officials and employees in relation to conflicts of interest involving contracts shall be as established by State law.

- C. Financial Conflict of Interest. An official or employee who has a financial interest, direct or indirect, in any matter to be decided by the Planning Commission, other than with respect to a contract, shall make that interest known and shall refrain from voting upon or otherwise participating in the making of the decision. Violation of this subsection with the knowledge, express or implied, of the person or corporation dealing with the Planning Commission shall render the decision voidable by the City Manager or the City Commission. Any official or employee violating the provisions of this subsection shall forfeit office.

VII. PROCEDURE:

- A. All inquiries, applications or matters requiring official action by the Commission which is not specifically mentioned below shall be submitted in writing to the City Clerk and the City Manager at least fourteen (14) days prior to the meeting of the Commission at which consideration is requested, unless otherwise specified by ordinance or policy.
- B. Requests for rezoning, zoning ordinance text amendments, subdivision approvals, site plan reviews, special land use permits, or planned unit developments shall be filed on application forms obtained from the Planning Department.

- C. All applications or requests requiring the payment of fees shall not be considered until the fees are paid in full. The PC does not have authority to waive the payment of fees.
- D. The Commission may require such surveys, plans, or other information as required for the proper evaluation or consideration of the matter. Written documentation from the applicant should be presented to the Commission which will give full information as to the intentions of the applicant, as well as a legal and informal description of the property in question.
- E. In the event an applicant requests that his or her item be deferred to a future meeting, after it has been published, noticed and scheduled, the public hearing may be held to allow interested citizens an opportunity to speak to the request, then deferred to a specific future meeting and scheduled in sequence on the agenda.
- F. Whenever there is an administrative decision to be made by the Commission, members of the Commission shall avoid ex parte contact. An administrative decision resolves an application for a decision to be made by the Planning Commission, such as a rezoning, a Special Land Use Permit or a request for a Planned Unit Development. Ex parte contact is contact with the applicant outside of a Planning Commission meeting when there is a pending request requiring PC action, regardless of means, such as a telephone conversation, email, in-person conversation. In the event such contact is made, the member of the Commission shall submit a document to the City Clerk and the City Manager outlining the nature of the contact, and what was said. The document shall be provided to all Commissioners before the next PC meeting.

VIII. PUBLIC HEARINGS:

- A. The primary function of a public hearing process is the gathering of information through public testimony and written documentation. The nature of the evidence received during this process may in some cases require further careful consideration to assure a logical and just decision. The Commission may therefore determine at each public hearing the meeting date at which a decision will be rendered.
- B. An applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the request. If the applicant or agent is not present, the request may be tabled until the next meeting or dismissed at the discretion of the Commission.

- C. The Commission shall hold a public hearing on any proposed amendment to the zoning ordinance or zoning map. Official notice for the Commission public hearings shall comply with the requirements and procedures established by the Bangor Code of Ordinances. The Commission shall recommend approval or denial of the amendment, and shall transmit, in writing, its recommendation to the City Commission for official action.
- D. The Commission shall hold a public hearing on any proposed City Commission authorized Special Land Use Permit. The official notice of public hearing shall comply with the Bangor Code of Ordinances. The Commission may recommend denial, approval or approval with conditions after said hearing and notification as provided herein. Its recommendation shall be incorporated in a statement of conclusions specifying the basis for the recommendation and any conditions imposed, which statement shall be transmitted to the City Commission for official hearing and action.
- E. The Commission may hold a public hearing with such notice as it deems advisable for Planned Unit Developments. The official notice of public hearing shall comply with the Bangor Code of Ordinances. After review by the Commission, it shall submit a written recommendation to the City Commission.
- F. In the case of lots splits for unusual or unique circumstances, the Commission may in its discretion hold a public hearing on the matter and make a recommendation to the City Commission for appropriate action.
- G. The Commission may hold a public hearing with such notice as is deemed advisable for public street and alley vacations and openings. After review by the Commission, it shall submit a written recommendation to the City Commission.
- H. The Commission will not reconsider any request on which a negative decision has been rendered within one (1) year from the date of the Commission's decision on the request unless it can be shown by the applicant that substantial new information affecting the request which was not presented to the Commission at the previous hearing(s) is now available and would affect the original decision rendered. Said substantial new information shall be described in writing by the applicant at the time of application. Before re-hearing the request, the Commission shall decide whether there is substantial new information allowing the new hearing.

IX. PUBLIC COMMENT AT REGULAR AND SPECIAL MEETINGS:

The Planning Commission welcomes public comment pursuant to the following rules:

- A. Public Comment During the Designated Public Comment Section - General.** Any interested person wishing to address the Planning Commission regarding other matters may do so under the designated Public Comment section. All persons are encouraged to identify themselves and their address and shall direct their comments to the Commission. The comment of any member of the public or any special interest group may be limited in time to three minutes except as provided in subsection (D). Questions posed may be answered at the meeting or may be referred to staff for response at a later time.
- B. Public Comment During the Designated Public Comment Section - Planning Commissioners.** Planning Commissioners interested in making a public comment may do so under the designated Public Comment section. Further, Planning Commissioners may briefly respond for clarification purposes as a result of public comment.
- C. Order and Duration of Any Public Comment.** The presiding officer shall control the order and duration of any public comment subject to appeal. The presiding officer shall have the authority to limit and terminate any public comment that becomes disruptive, unduly repetitive, or impedes the orderly progress of the meeting. Items not appearing on the agenda will not be acted upon by the Planning Commission except in accordance with these rules.

X. ETHICAL STANDARDS OF CONDUCT:

- 1. The Planning Commission will adhere to the ethical standards of conduct as located within City of Bangor Ordinance, Chapter 36: Ethical Standards of Conduct and City of Bangor Ordinance, Amendment #258, Ethical Standards of Conduct, and future amendments.

XI. AMENDMENTS:

- A.** These bylaws may be amended or modified provided that such amendment or modification is presented in writing at a meeting and that favorable action is taken thereon at a subsequent meeting.

B. Five (5) members of the Commission, by due motion and recorded vote, may suspend or vary the application of these rules to a particular application, case, problem, or proceeding pending before the Commission.

I hereby certify that the Bangor Planning
Commission adopted the above
document on 3/13/25.


Secretary

Bangor Planning Commission

CHAPTER 36: ETHICAL STANDARDS OF CONDUCT

Section

- 36.01 Interpretation
- 36.02 Public policy declaration
- 36.03 Definitions
- 36.04 Standards of conduct
- 36.05 Prohibited acts
- 36.06 Exclusions
- 36.07 Integrity, reputation and the ability to enforce standards
- 36.08 Review process
- 36.09 Violations

§ 36.01 INTERPRETATION.

This chapter shall establish ethical standards of conduct for elected and appointed officials of the city whether compensated or not. The standards shall also apply to employees of the city whether administrative or appointive, whether compensated by the hour or by salary, and whether members of an employee group or not.
(Ord. 258, passed 1-7-02)

§ 36.02 PUBLIC POLICY DECLARATION.

It is hereby declared to be the standard of ethical service to the city that all officials and employees avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and to assure the integrity and impartiality of all officials and employees of the city, it is necessary that adequate guidelines be provided for separating their roles as private citizens from their roles as public servants. Elected and appointive office, whether compensated or not, and public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. The ethical standards established herein are intended to eliminate to the fullest extent possible violations of ethical conduct and to ensure that such are investigated and punished where applicable.

(Ord. 258, passed 1-7-02)

§ 36.03 DEFINITIONS.

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

AGREEMENT. An understanding between two or more persons or entities; a contract.

APPOINTED. Selected and installed in an office or position.

ASSOCIATED. The condition of being an owner, partner, member, part owner, employee, limited partner, stock holder, director, lender, borrower, or having a financial interest in.

BENEFICIARY. A person or entity receiving a benefit.

BUSINESS. Commercial or industrial enterprise or establishment, store, etc.; work, employment, profession of an individual or group; commerce.

CANDIDATE. Someone who seeks or who has been proposed for an office, position, or award.

CITY. The City of Bangor.

CITY EMPLOYEE. An employee of the city whether full or part-time, contract or hired.

CITY FUNDS. Any funds, money, or monetary rights owned by the city, or under city control in a fiduciary or representative capacity.

CITY OFFICER/OFFICIAL. An officer of the city; someone holding an official position of authority with the city; e.g. the Clerk, the Mayor, the Assessor, etc. whether the position is elective, appointive, administrative, contracted or hired and whether compensated or not as established by City Charter or City Ordinance which involves the exercise of a public power, trust or duty. This does not include a volunteer not appointed or elected to office.

CITY PERSONNEL. Individuals working for the city as employees for wages, salary or other agreed benefits.

CITY PROPERTY. Anything tangible or intangible including rights owned by the city or under the control of the city in fiduciary or representative capacity.

COMPENSATION. Money, property, thing of value or benefit conferred upon or received by any person or sought for any person in return for services rendered for or to be rendered to himself/herself or another.

CONFLICT OF INTEREST. An interest that competes with or is adverse to a legitimate interest of the city.

CONSIDERATION. Something given or promised in exchange for something else, tangible or intangible, including promises.

CONTRACTS. Agreements or mutual understandings supported by present or future consideration.

CONTRIBUTION. Money or aid given another.

COUNCIL. The City Council.

DECISION MAKING. Exercising public power to adopt laws, regulations or standards, render decisions, establish policy, determine questions of discretion.

DURING THE COURSE OF CITY BUSINESS. While planning, working on, reporting on, or carrying out the affairs of the city whether for compensation or not.

DUTY OF DUE CARE. Exercising power, trust, authority or decision making as a prudent person would exercise; not acting on a direct conflict of interest or a potential conflict of interest to self benefit or the benefit of another.

ELECTED. Chosen by the eligible voters of the city.

ELECTION FRAUD. A crime consisting of an intentional act which violates the election laws of the State of Michigan and which act is either designated as fraud by the relevant statute.

EMPLOYEE. A person working for the city for wages, salary, or other benefits and under the control and supervision of the city as to hours, work standards, and rules of work, etc.

EXCHANGE (v. t.). To give in return.

EXPECTATION. Looking forward to something; a looking forward as due.

FAVOR. An unfair partiality; an obliging act.

FAVOR (v. t.). To be partial to, to support; advocate; to help.

FINANCIAL GAIN. Increase in monetary or material wealth or earnings.

GAIN. An increase in power, advantage, wealth, possessions, earnings.

GIFT. Something given without recompense.

IMMEDIATE FAMILY. Spouse, child or step child, mother, father, step-parents, grand parents, step-grand parents, brothers, sisters, step-brothers or sisters, or in-laws of any kind.

INFLUENCE. The power of persons or things to influence others.

INTERFERE. To come between for some purpose; meddle; attempt to determine course or outcome without authority or legitimate purpose.

MEMBER. Any of the persons constituting an organization or group.

MORAL TURPITUDE. An act of baseness; vileness or depravity; conduct contrary to honesty, justice or good morals.

OFFICER/OFFICIAL. A person holding office, or position of authority in the city as may be described in the City Charter or by ordinance but not a volunteer not appointed or elected to a position.

OFFICIAL CONDUCT. Action or inaction by an officer or employee acting on behalf of the city.

OFFICIAL DUTY/OFFICIAL ACTION. A decision, action, recommendation, approval, disapproval or other action or failure to action which involves the use of power, trust, decision making, or authority, or with moral turpitude.

OTHER PERSONS/ANYONE ELSE. Members of one's immediate family or individual persons, or businesses, entities, associations, or groups.

PERSONAL GAIN. Advantage or increase in wealth, possessions, power or other benefits for an individual or on behalf of another individual.

POTENTIAL CONFLICT OF INTEREST. A situation whereby the interests of the city and the interests of someone else will, may, or might become in conflict in the ordinary course of events.

PROMISE. An agreement to do or not do something.

REWARD. Something given for something done.

RULES OF ETHICAL CONDUCT. The provisions of Ordinance 258.

SOLICIT. To ask or seek; often earnestly; to entice another to do something.
(Ord. 258, passed 1-7-02)

§ 36.04 STANDARDS OF CONDUCT.

The city's integrity rests solidly on the foundation of several general rules of ethical behavior. These rules form fundamental values to be understood and honored by all.

(A) *Principles.* The city expects its candidates, officers, officials and employees to be honest, to tell the truth, and to 'play by the rules.' The city expects its candidates, officers, officials and employees to be aware that the first small step taken that undermines ones integrity or the integrity of the city usually leads to another and another. In a short time, without having done anything major, integrity is compromised.

(B) *Honesty.* The city expects its candidates, officers, officials and employees to not misrepresent situations, to not steal from the city, not falsify records, or misuse city property, equipment, supplies or assets for personal gain or benefit or for the gain or benefit of others.

(C) *Fairness.* The city expects its candidates, officers, officials and employees to treat each other and everyone else with evenhandedness, fairness and sincerity.

(D) *Perception.* The city expects its candidates, officers, officials and employees to act in such a way as to create the perception that he, she, and the city is acting fairly, honestly, and evenhandedly without partiality, favoritism, or dishonesty. The city expects its candidates, officers, officials and employees to avoid the appearance of impropriety, that behavior which suggests he, she or the city is acting questionably.

(E) *Spirit of the law.* The city expects its candidates, officers, officials and employees to honor the spirit of the law as well as the letter of the law.

(F) *Direction and suggestion.* The city expects its candidates, officers, officials and employees to understand that no improper action is made proper because a higher officer, official, or employee might have directed or suggested the action.

(G) *Gray areas.* Recognizing that there are times when city candidates, officers, officials and employees confront situations where there are two or more legitimate points of view, where there is no clear right or wrong answer, and that past practices have given way to new practices. It is in these situations the city expects its candidates, officers, officials and employees to be particularly careful and give thorough examination and thought before taking action or making decisions.
(Ord. 258, passed 1-7-02)

§ 36.05 PROHIBITED ACTS.

The following acts, actions, inactions, and attempted acts and actions constitute a violation of the ethical standards of conduct for city officials, officers and employees. These include but are not

necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this chapter.

(A) *Gratuities.* No city officer, official or employee of the city shall solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him or her in the performance of their official duty/duties or is intended as a reward for any official action on their part.

(B) *Preferential treatment.* No city officer, official or employee of the city shall use or attempt to use their official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for themselves or others.

(C) *Use of information.*

(1) No city officer, official or employee of the city who acquires information in the course of their official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private interests of themselves or anyone else.

(2) No city officer, official or employee of the city shall obtain or use city records, documents, communications, or others written or electronic records of the city or those under the control of the city to further the private interests of themselves or anyone else.

(3) No city officer, official or employee of the city shall use their position to obtain information or records, which information or records by law or policy is not available at the time to the general public without requesting such information or records through the methods granted by the Freedom of Information Act.

(D) *Full Disclosure.* No city officer, official or employee of the city shall participate, as an agent or representative of the city, in approving or disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has a direct or indirect interest without disclosing the full nature and extent of their interest. Such a disclosure must be made before the time to perform their duty or concurrently with that performance. If the officer, official or employee is a member of a decision making or advisory body, the disclosure must be made to the Chairman and other members of the body on the official record. Otherwise, a disclosure would be appropriately addressed by an appointed officer or employee to the supervisory head of the organization, or by an elected officer to the general public.

(E) *Use of city property.* No city officer, official or employee of the city shall, directly or indirectly, make use of or permit others to make use of city property, equipment, vehicles, or supplies of any kind for purely personal gain.

(F) *Other prohibited conduct.* No city officer, official or employee of the City shall engage in any of the practices described below in list form. The following acts, actions, inactions, and attempted acts and actions constitute a violation of the ethical standards of conduct for city officials, officers and employees. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this chapter, if not the Charter and labor agreements. They include:

- (1) Impeding government efficiency or operation.
- (2) Affecting adversely the confidence of the public in the integrity of the City.
- (3) Interfering on behalf of an employee or a member of one's immediate family.
- (4) Divulging confidential information.
- (5) Misusing city personnel resources, property, funds or assets for personal gain or the gain of others.
- (6) Representing his or her individual opinion as that of the city.
- (7) Violating labor agreements between the city and its employees.
- (8) Violating policies adopted by the City Council.
- (9) Engaging in a business transaction that cause the candidate, officer, official or employee to derive a personal gain.
- (10) Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties.
- (11) Offering a candidate, officer, official or employee of the city a gift, loan, contribution, reward or promise based on agreement, promise, or expectation that the vote, decision making or action of the candidate, officer, official or employee of the city would be influenced thereby.
- (12) Engaging in an act, actions or other conduct contrary to honesty, justice or good morals; or an act or actions of moral turpitude.
- (13) Acting on behalf of the city or on the behalf of the City Council when authority has not been specifically given.
- (14) Making a city decision outside of the official channels.

(15) Soliciting support, financial or material, for city social, athletic, or recreational parties from individuals or firms that do business with the city or want to.

(16) Appearing before city bodies on behalf of a private interest.

(17) Participating in decision making affecting the interest of ones business or immediate family. The decision making may include monetary decisions, labor agreements, or other decisions that impact ones business and/or immediate family.

(18) Missing in attendance from three consecutive regularly called meetings at which the attendance of the city officer, or official is required and know as part of the duties of such city officer, or official.

(Ord. 258, passed 1-7-02)

§ 36.06 EXCLUSIONS.

This chapter is not intended to cover the following.

(A) This chapter shall not prohibit a city officer, official, candidate or employee from accepting minor gifts such as meals, awards, pens, pencils, and other token items valued at \$25 or less when the gift is extended during the course of city business and no return promise is made by the recipient.

(B) This chapter shall not prevent any officer, official or employee from accepting their regular compensation.

(C) This chapter does not prohibit the expression of views and opinions or communications of plans for future action, nor does it prohibit contributions to political parties or candidates as permitted by law.

(D) This chapter shall not apply to a city officer, official or employee who in the course of decision making discloses a direct or indirect conflict of interest or potential conflict of interest in any matter before the City Council, advisory board or commission and is permitted to continue participating in the decision making.

(E) This chapter shall not prohibit the City Manager, City Attorney and all law enforcement officials from exercising their usual power, control and discretion which are part of their duties.

(F) This chapter shall not prohibit the Mayor and City Council from making policy decisions, enacting legislation, and directing the affairs of the city in accordance with their legal powers and responsibilities as provided in the City Charter or state statutes.

(G) This chapter shall not be enforced to cause any person to be favored or discriminated against because of race, gender, age, handicap, religion, country of origin or political affiliation. (Ord. 258, passed 1-7-02)

§ 36.07 INTEGRITY, REPUTATION AND THE ABILITY TO ENFORCE STANDARDS.

Preserving the integrity of the city is important to all officers, officials and employees of the city. Fairness, honesty, evenhandedness, and sincerity, a kind that transcends both the law and the values of individuals are achieved by observing an overriding set of ethical standards. Integrity is also preserved by recognizing, at times, complaints of questionable actions of city officers, officials and employees and others need to be handled with the same fairness, honesty, evenhandedness and sincerity. A city's reputation and its overall success are securely linked. The city reputation, obviously, is based on more than the collective reputations of its employees and officials. The city's reputation depends on how people perceive that the city, whatever the issue or set of circumstances, will act with integrity. Preserving the integrity of the city may result in official action to enforce and punish violations of the Ethical Standards of Conduct.

(A) *Controlling authorities.* All matters concerning the Ethical Standards of Conduct shall be directed to one of two controlling authorities depending upon employment status of the person or group involved. The request may be made by the individual or any city candidate, officer, official, or employee. There are two different controlling authorities depending upon whose request, act or action the controlling authority is reviewing.

(1) Requests to investigate or take action to enforce the Ethical Standards of Conduct regarding elected and appointed city officers and officials or candidates for elective or appointive office shall go to the Mayor, City Council and City Attorney. Should the request involve a member of the City Council, that member shall not be a part of the controlling authority.

(2) Requests to investigate or take action to enforce the Ethical Standards of Conduct regarding employees of the city shall go to the City Manager and City Attorney. Should the request involve the City Manager or the City Attorney, the Mayor shall name a replacement to serve on the controlling authority for that request.

(B) *Authority to render advisory opinions.* The above listed authorities may issue written advisory opinions, when deemed appropriate, interpreting the Ethical Standards of Conduct ordinance as set forth herein. Any city officer, official, or employee may seek guidance from the controlling authority upon written request on questions directly relating to the propriety of their conduct as officers, officials and employees. Each written request and advisory opinion shall be confidential unless released by the requester.

(C) *Authority to punish violations.* The above listed authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning the Ethical Standards

of Conduct ordinance. Except for direct references that may be provided by City Charter or labor agreements controlling any action either authority above may take or except as either may establish an action that either authority may take, both authorities are herein empowered to take and enforce actions, as they deem appropriate. The appropriate action to be taken in any individual case shall be at the sole discretion of the controlling authority involved which may include but is not necessarily limited to any of the following:

- (1) Referral of the matter to a higher authority.
- (2) Pursuing further investigation by the controlling authority.
- (3) Deeming no action to be required.
- (4) Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.
- (5) Taking appropriate disciplinary action, including declaring a forfeiture of office and removal from office, appointed position or employment whether or not the removal of office is directly referenced by City Charter or by labor agreement but is referenced by this chapter.
 - (a) If the violation is for an offense also contained in the City Charter and is one which the Charter determines is punished by removal, the process for removal from office is the same as the process in the City Charter.
 - (b) If the violation is for an offense also contained in labor agreements between the city and its employees, then the process for removal is the same as contained in the labor agreements.
 - (c) If the violation is for an offense contained in this chapter and for which the controlling authority recommends the forfeiture and removal from office, whether elective, or appointive or from a position as an employee, then the process contained herein is the process that is followed.

(D) *Advisory opinions.* Any city candidate, officer, official, or employee of the city may seek advisory opinions. Advisory opinions may include guidance to any candidate, officer, official, or employee. Request for an advisory opinion shall be made in writing and provide as much detail as possible. The controlling authority may investigate as it deems appropriate and with regard to due process and the rights of individuals as established in State and Federal laws. The controlling authority may take as much time as it deems necessary before rendering its opinion provided that all attempts to satisfy the request in a timely manner are made. The controlling authority shall issue its advisory opinions in writing. The advisory opinion shall be confidential and shall not be released to anyone or any entity unless the person making the request releases the opinion.
(Ord. 258, passed 1-7-02)

§ 36.08 REVIEW PROCESS.

(A) *Determination to proceed.* The controlling authority shall first make a determination to proceed. Any city candidate, officer, official, or employee of the city may request that the controlling authority review, investigate and recommend action regarding alleged violations of the Ethical Standards of Conduct ordinance. Such requests shall be in writing. The controlling authority may decide to review, investigate and recommend action regarding alleged violations of the Ethical Standards of Conduct ordinance on their own determination or at the request of other persons. All decisions to review, investigate and recommend action shall first be made in writing.

(B) *Duty of due care.* The controlling authority shall be entitled to proceed as it deems necessary and appropriate. The controlling authority shall conduct itself in a manner so as to be thorough, complete and proceed in a reasonable and prudent manner protecting the rights of individuals.

(C) *Recommendation for punishment.* Any candidate, officer, official or employee, for whom the controlling authority recommends punishment, shall be entitled to a hearing before the controlling authority as herein determined.

- (1) The controlling authority shall notify, in writing, the affected candidate, officer, official or employee of the charges that the controlling authority is basing its recommendation of punishment.
- (2) The candidate, officer, official or employee shall have the opportunity to a hearing before the controlling authority.
- (3) The candidate, officer, official or employee shall notify the controlling authority, in writing, that it wishes to be present at a hearing and whether or not legal counsel will attend as well as any witnesses the candidate, officer, official or employee plans to call.
- (4) The hearing shall be scheduled within 30 days of the notification of the recommendation for punishment. The hearing shall be closed to the public unless the candidate, officer, official or employee selects to have the hearing open to the public.
- (5) Minutes of the hearing shall be kept and held by the City Attorney for at least 12 months after which they may be destroyed.
- (6) Following the hearing, the controlling authority shall decide to:
 - (a) Hold the recommendation for further review and investigation;
 - (b) Amend its previous recommendation and determine punishment;
 - (c) Reject its previous recommendation altogether and take new action or determine to take no punitive action; or

(d) Proceed with its previous recommendation and take punitive action.

(7) Any punitive action recommended by the controlling authority shall be forwarded to the City Council which shall vote on the recommendation for punitive action at its next regularly scheduled meeting of the City Council. At that meeting, the City Council, less any member for whom the punitive action is recommended, a majority of those members remaining shall vote to accept, to reject or to send the recommendation back to the controlling authority.

(8) If the recommendation of either the controlling authority, as in division (6)(a) above, or the City Council, as in division (7) above, is to result in further review and investigation of the controlling authority, the process in this section shall begin anew.

(9) If the recommendation of the controlling authority is accepted by the City Council, its effect is binding and immediate and the candidate, officer, official or employee has been deemed guilty of a violation of the Ethical Standards of Conduct ordinance offending all persons, the City Council, boards, and commissions, of the city.

(Ord. 258, passed 1-7-02)

§ 36.09 VIOLATIONS.

Punitive action recommended by the controlling authority and adopted by the City Council shall be findings of violations of this chapter whether or not a court of competent jurisdiction has also found a violation of the chapter. While the City Council may find a person or persons guilty of misconduct and take punitive action against the guilty party, including removal of office, only a court of competent jurisdiction may convict a person for violations of this chapter. Every person convicted of a violation of this chapter, by a court of competent jurisdiction, shall be punished by a fine of not more than \$500 or by a sentence of not more than 93 days in jail, or both, at the discretion of the court.

(Ord. 258, passed 1-7-02)

CITY OF BANGOR ORDINANCE # 258 ETHICAL STANDARDS OF CONDUCT

AN ORDINANCE TO ADD CHAPTER 36: ETHICS TO TITLE III, ADMINISTRATION, CODE OF ORDINANCES, FOR THE CITY OF BANGOR ESTABLISHING A CODE OF ETHICAL STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS AND EMPLOYEES OF THE CITY OF BANGOR THAT IS APPLICABLE TO PERSONS IN MUNICIPAL SERVICE WHETHER COMPENSATED OR NOT AND WHETHER ELECTED, APPOINTED OR HIRED AND TO PRESCRIBE PENALTIES FOR VIOLATIONS.

THE CITY OF BANGOR ORDAINS:

36.10 TITLE

This ordinance shall add Chapter 36 to Title III of the City Code of Ordinances and shall be titled Ethical Standards of Conduct.

36.20 INTERPRETATION

This Chapter shall establish ethical standards of conduct for elected and appointed officials of the City of Bangor whether compensated or not. The standards shall also apply to employees of the City of Bangor whether administrative or appointive, whether compensated by the hour or by salary, and whether members of an employee group or not.

36.30 SEVERABILITY

If any provision or section of this ordinance may later be amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provisions or applications.

36.40 REFERENCE TO OTHER SECTIONS

This ordinance, sections of this ordinance, or any of the parts of this amendment take precedence over other sections of this code. The Bangor City Council automatically amends affected sections of this code upon proper adoption, from time to time, of subsequent amendments.

36.50 PUBLIC POLICY DECLARATION

It is hereby declared to be the standard of ethical service to the City of Bangor that all officials and employees avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and to assure the integrity and impartiality of all officials and employees of the City, it is necessary that adequate guidelines be provided for

separating their roles as private citizens from their roles as public servants. Elected and appointive office, whether compensated or not, and public employment is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. The ethical standards established herein are intended to eliminate to the fullest extent possible violations of ethical conduct and to ensure that such are investigated and punished where applicable.

36.60 Definitions

As used in this ordinance, the following words and phrases shall have the following meanings:

Agreement – an understanding between two or more persons or entities; a contract

Appointed – selected and installed in an office or position

Associated – the condition of being an owner, partner, member, part owner, employee, limited partner, stock holder, director, lender, borrower, or having a financial interest in

Beneficiary – a person or entity receiving a benefit

Business – commercial or industrial enterprise or establishment, store, etc.; work, employment, profession of an individual or group; commerce

Candidate – someone who seeks or who has been proposed for an office, position, or award
City – the City of Bangor

City employee – an employee of the City of Bangor whether full or part-time, contract or hired
City funds – any funds, money, or monetary rights owned by the city, or under City control in a fiduciary or representative capacity

City officer / official – an officer of the City of Bangor; someone holding an official position of authority with the City; e.g. the clerk, the mayor, the assessor, etc. whether the position is elective, appointive, administrative, contracted or hired and whether compensated or not as established by City Charter or City Ordinance which involves the exercise of a public power, trust or duty. This does not include a volunteer not appointed or elected to office.

City personnel – individuals working for the City of Bangor as employees for wages, salary or other agreed benefits

City Property – anything tangible or intangible including rights, owned by the City or under the control of the City in fiduciary or representative capacity

Compensation – money, property, thing of value or benefit conferred upon or received by any person or sought for any person in return for services rendered for or to be rendered to himself/herself or another

Conflict of interest – an interest that competes with or is adverse to a legitimate interest of the City

Consideration – something given or promised in exchange for something else, tangible or intangible, including promises

Contracts – agreements or mutual understandings supported by present or future consideration
Contribution – money or aid given another

Council – the City Council of the City of Bangor

Decision making – exercising public power to adopt laws, regulations or standards, render decisions, establish policy, determine questions of discretion

During the course of City business – while planning, working on, reporting on, or carrying out the affairs of the City whether for compensation or not

Duty of due care – exercising power, trust, authority or decision making as an prudent person

would exercise; not acting on a direct conflict of interest or a potential conflict of interest to self benefit or the benefit of another

Elected – chosen by the eligible voters of the City

Election fraud – a crime consisting of an intentional act which violates the election laws of the

State of Michigan and which act is either designated as fraud by the relevant statute

Employee – a person working for the City for wages, salary, or other benefits and under the control and supervision of the City as to hours, work standards, and rules of work, etc.

Exchange – v. t. – to give in return

Expectation – looking forward to something; a looking forward as due

Favor – an unfair partiality; an obliging act; v.t. to be partial to, to support; advocate; to help

Financial gain – increase in monetary or material wealth or earnings

Gain – an increase in power, advantage, wealth, possessions, earnings

Gift – something given without recompense

Immediate family – spouse, child or step child, mother, father, step-parents, grand parents, step grand parents, brothers, sisters, step-brothers or sisters, or in-laws of any kind

Influence – the power of persons or things to influence others

Interfere – to come between for some purpose; meddle; attempt to determine course or outcome without authority or legitimate purpose

Member – any of the persons constituting an organization or group

Moral turpitude – an act of baseness; vileness or depravity; conduct contrary to honesty, justice or good morals

Officer / official – a person holding office, or position of authority in the City as may be described in the City Charter or by ordinance but not a volunteer not appointed or elected to a position

Official conduct – action or inaction by an officer or employee acting on behalf of the City

Official duty / official action – a decision, action, recommendation, approval, disapproval or other action or failure to action which involves the use of power, trust, decision making,

or authority, or with moral turpitude

Other persons / Anyone else – members of ones immediate family or individual persons, or businesses, entities, associations, or groups

Personal gain – advantage or increase in wealth, possessions, power or other benefits for an individual or on behalf of another individual

Potential conflict of interest – a situation whereby the interests of the City and the interests of someone else will, may, or might become in conflict in the ordinary course of events

Promise – an agreement to do or not do something

Reward – something given for something done

Rules of ethical conduct – the provisions of this ordinance

Solicit – to ask or seek; often earnestly; to entice another to do something

36.70 STANDARDS OF CONDUCT

The City's integrity rests solidly on the foundation of several general rules of ethical behavior. These rules form fundamental values to be understood and honored by all.

1. Principles

The City expects its candidates, officers, officials and employees to be honest, to tell the truth, and to 'play by the rules.' The City expects its candidates, officers, officials and employees to be

aware the first small step taken that undermines ones integrity or the integrity of the City usually leads to another and another. In a short time, without having done anything major, integrity is compromised.

2. Honesty

The City expects its candidates, officers, officials and employees to not misrepresent situations, to not steal from the City, not falsify records, or misuse City property, equipment, supplies or assets for personal gain or benefit or for the gain or benefit of others.

3. Fairness

The City expects its candidates, officers, officials and employees to treat each other and everyone else with evenhandedness, fairness and sincerity.

4. Perception

The City expects its candidates, officers, officials and employees to act in such a way as to create the perception that he, she, and the City is acting fairly, honestly, and evenhandedly without partiality, favoritism, or dishonesty. The City expects its candidates, officers, officials and employees to avoid the appearance of impropriety, that behavior which suggests he, she or the City is acting questionably.

5. Spirit of the Law

The City expects its candidates, officers, officials and employees to honor the spirit of the law as well as the letter of the law.

6. Direction and Suggestion

The City expects its candidates, officers, officials and employees to understand that no improper action is made proper because a higher officer, official, or employee might have directed or suggested the action.

7. Gray Areas

Recognizing that there are times when City candidates, officers, officials and employees confront situations where there are two or more legitimate points of view, where there is no clear right or wrong answer, and that past practices have given way to new practices. It is in these situations the City expects its candidates, officers, officials and employees to be particularly careful and give thorough examination and thought before taking action or making decisions.

36.80 PROHIBITED ACTS

The following acts, actions, inactions, and attempted acts and actions constitute a violation of the ethical standards of conduct for city officials, officers and employees. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this ordinance.

1. Gratuities

No city officer, official or employee of the City shall solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can

reasonably be inferred that the gift is intended to influence him or her in the performance of their official duty/duties or is intended as a reward for any official action on their part.

2. Preferential Treatment

No city officer, official or employee of the City shall use or attempt to use their official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for themselves or others.

3. Use of Information

A) No city officer, official or employee of the City who acquires information in the course of their official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private interests of themselves or anyone else.

B) No city officer, official or employee of the City shall obtain or use City records, documents, communications, or others written or electronic records of the City or those under the control of the City to further the private interests of themselves or anyone else.

C) No city officer, official or employee of the City shall use their position to obtain information or records, which information or records by law or policy is not available at the time to the general public without requesting such information or records through the methods granted by the Freedom of Information Act.

4. Full Disclosure

No city officer, official or employee of the City shall participate, as an agent or representative of the City, in approving or disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has a direct or indirect interest without disclosing the full nature and extent of their interest. Such a disclosure must be made before the time to perform their duty or concurrently with that performance. If the officer, official or employee is a member of a decision making or advisory body, the disclosure must be made to the Chairman and other members of the body on the official record. Otherwise, a disclosure would be appropriately addressed by an appointed officer or employee to the supervisory head of the organization, or by an elected officer to the general public.

5. Use of City Property

No city officer, official or employee of the City shall, directly or indirectly, make use of or permit others to make use of City property, equipment, vehicles, or supplies of any kind for purely personal gain.

6. Other Prohibited Conduct

No city officer, official or employee of the City shall engage in any of the practices described below in list form. The following acts, actions, inactions, and attempted acts and actions constitute a violation of the ethical standards of conduct for city officials, officers and employees. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this ordinance, if not the Charter and labor agreements. They include:

1. Impeding government efficiency or operation.
2. Affecting adversely the confidence of the public in the integrity of the City.

3. Interfering on behalf of an employee or a member of one's immediate family.
4. Divulging confidential information.
5. Misusing City personnel resources, property, funds or assets for personal gain or the gain of others.
6. Representing his or her individual opinion as that of the City.
7. Violating labor agreements between the City and its employees.
8. Violating policies adopted by the City Council.
9. Engaging in a business transaction that cause the candidate, officer, official or employee to derive a personal gain.
10. Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties.
11. Offering a candidate, officer, official or employee of the City a gift, loan, contribution, reward or promise based on agreement, promise, or expectation that the vote, decision making or action of the candidate, officer, official or employee of the City would be influenced thereby.
12. Engaging in an act, actions or other conduct contrary to honesty, justice or good morals; or an act or actions of moral turpitude.
13. Acting on behalf of the City or on the behalf of the City Council when authority has not been specifically given.
14. Making a city decision outside of the official channels.
15. Soliciting support, financial or material, for City social, athletic, or recreational parties from individuals or firms that do business with the City or want to.
16. Appearing before City bodies on behalf of a private interest.
17. Participating in decision making affecting the interest of ones business or immediate family. The decision making may include monetary decisions, labor agreements, or other decisions that impact ones business and/or immediate family.
18. Missing in attendance from three consecutive regularly called meetings at which the attendance of the city officer, or official is required and know as part of the duties of such city officer, or official.

36.90 EXCLUSIONS

This ordinance is not intended to cover the following.

- A) This ordinance shall not prohibit a city officer, official, candidate or employee from accepting minor gifts such as meals, awards, pens, pencils, and other token items valued at \$25 or less when the gift is extended during the course of city business and no return promise is made by the recipient.
- B) This ordinance shall not prevent any officer, official or employee from accepting their regular compensation.
- C) This ordinance does not prohibit the expression of views and opinions or communications of plans for future action, nor does it prohibit contributions to political parties or candidates as permitted by law.

- D) This ordinance shall not apply to a City officer, official or employee who in the course of decision making discloses a direct or indirect conflict of interest or potential conflict of interest in any matter before the City Council, advisory board or commission and is permitted to continue participating in the decision making.
- E) This ordinance shall not prohibit the city manager, city attorney and all law enforcement officials from exercising their usual power, control and discretion which are part of their duties.
- F) This ordinance shall not prohibit the Mayor and city council from making policy decisions, enacting legislation, and directing the affairs of the city in accordance with their legal powers and responsibilities as provided in the City Charter or State statutes.
- G) This ordinance shall not be enforced to cause any person to be favored or discriminated against because of race, gender, age, handicap, religion, country of origin or political affiliation.

36.100 INTEGRITY, REPUTATION AND THE ABILITY TO ENFORCE STANDARDS

Preserving the integrity of the City of Bangor is important to all officers, officials and employees of the City. Fairness, honesty, evenhandedness, and sincerity, a kind that transcends both the law and the values of individuals are achieved by observing an overriding set of ethical standards. Integrity is also preserved by recognizing, at times, complaints of questionable actions of City officers, officials and employees and others need to be handled with the same fairness, honesty, evenhandedness and sincerity. A City's reputation and its overall success are securely linked. The City of Bangor's reputation, obviously, is based on more than the collective reputations of its employees and officials. The City's reputation depends on how people perceive that the city, whatever the issue or set of circumstances, will act with integrity. Preserving the integrity of the City may result in official action to enforce and punish violations of the Ethical Standards of Conduct.

1. Controlling Authorities

All matters concerning the Ethical Standards of Conduct shall be directed to one of two controlling authorities depending upon employment status of the person or group involved. The request may be made by the individual or any City candidate, officer, official, or employee. There are two different controlling authorities depending upon whose request, act or action the controlling authority is reviewing.

A) Requests to investigate or take action to enforce the Ethical Standards of Conduct regarding elected and appointed City officers and officials or candidates for elective or appointive office shall go to the Mayor, City Council and City Attorney.

- 1) Should the request involve a member of the City council, that member shall not be a part of the controlling authority.

B) Requests to investigate or take action to enforce the Ethical Standards of Conduct regarding employees of the City shall go to the City Manager and City Attorney.

- 1) Should the request involve the City Manager or the City Attorney, the Mayor shall name a replacement to serve on the controlling authority for that request.

2. Authority to Render Advisory Opinions

The above listed authorities may issue written advisory opinions, when deemed appropriate, interpreting the Ethical Standards of Conduct ordinance as set forth herein. Any City officer,

official, employee may seek guidance from the controlling authority upon written request on questions directly relating to the propriety of their conduct as officers, officials and employees. Each written request and advisory opinion shall be confidential unless released by the requester.

3. Authority to Punish Violations

The above listed authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning the Ethical Standards of Conduct ordinance for the City of Bangor. Except for direct references that may be provided by City Charter or labor agreements controlling any action either authority above may take or except as either may establish an action that either authority may take, both authorities are herein empowered to take and enforce actions, as they deem appropriate. The appropriate action to be taken in any individual case shall be at the sole discretion of the controlling authority involved which may include but is not necessarily limited to any of the following:

- A) Referral of the matter to a higher authority.
 - B) Pursuing further investigation by the controlling authority.
 - C) Deeming no action to be required.
 - D) Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.
 - E) Taking appropriate disciplinary action, including declaring a forfeiture of office and removal from office, appointed position or employment whether or not the removal of office is directly referenced by City Charter or by labor agreement but is referenced by this ordinance.
- 1) If the violation is for an offense also contained in the City Charter and is one which the Charter determines is punished by removal, the process for removal from office is the same as the process in the City Charter.
 - 2) If the violation is for an offense also contained in labor agreements between the City and its employees, then the process for removal is the same as contained in the labor agreements.
 - 3) If the violation is for an offense contained in this ordinance and for which the controlling authority recommends the forfeiture and removal from office, whether elective, or appointive or from a position as an employee, then the process contained herein is the process that is followed.

4. Advisory Opinions

Any City candidate, officer, official, or employee of the City of Bangor may seek advisory opinions. Advisory opinions may include guidance to any candidate, officer, official, or employee. Request for an advisory opinion shall be made in writing and provide as much detail as possible. The controlling authority may investigate as it deems appropriate and with regard to due process and the rights of individuals as established in State and Federal laws. The controlling authority may take as much time as it deems necessary before rendering its opinion provided that all attempts to satisfy the request in a timely manner are made. The controlling authority shall issue its advisory opinions in writing. The advisory opinion shall be confidential and shall not be released to anyone or any entity unless the person making the request releases the opinion.

36.110 REVIEW PROCESS

1. Determination to Proceed

The controlling authority shall first make a determination to proceed. Any City candidate, officer, official, or employee of the City of Bangor may request that the controlling authority review, investigate and recommend action regarding alleged violations of the City of Bangor Ethical Standards of Conduct ordinance. Such requests shall be in writing. The controlling authority may decide to review, investigate and recommend action regarding alleged violations of the City of Bangor Ethical Standards of Conduct ordinance on their own determination or at the request of other persons. All decisions to review, investigate and recommend action shall first be made in writing.

2. Duty of Due Care

The controlling authority shall be entitled to proceed as it deems necessary and appropriate. The controlling authority shall conduct itself in a manner so as to be thorough, complete and proceed in a reasonable and prudent manner protecting the rights of individuals.

3. Recommendation for Punishment

Any candidate, officer, official or employee, for whom the controlling authority recommends punishment, shall be entitled to a hearing before the controlling authority as herein determined.

A) The controlling authority shall notify, in writing, the affected candidate, officer, official or employee of the charges that the controlling authority is basing its recommendation of punishment.

B) The candidate, officer, official or employee shall have the opportunity to a hearing before the controlling authority.

C) The candidate, officer, official or employee shall notify the controlling authority, in writing, that it wishes to be present at a hearing and whether or not legal counsel will attend as well as any witnesses the candidate, officer, official or employee plans to call.

D) The hearing shall be scheduled within 30 days of the notification of the recommendation for punishment. The hearing shall be closed to the public unless the candidate, officer, official or employee selects to have the hearing open to the public.

E) Minutes of the hearing shall be kept and held by the City Attorney for at least 12 months after which they may be destroyed.

F) Following the hearing, the controlling authority shall decide to:

- 1) Hold the recommendation for further review and investigation,
- 2) Amend its previous recommendation and determine punishment,
- 3) Reject its previous recommendation altogether and take new action or determine to take no punitive action, or
- 4) Proceed with its previous recommendation and take punitive action.

G) Any punitive action recommended by the controlling authority shall be forwarded to the City Council which shall vote on the recommendation for punitive action at its next regularly scheduled meeting of the City Council. At that meeting, the City Council, less any member for whom the punitive action is recommended, a majority of those members remaining shall vote to accept, to reject or to send the recommendation back to the controlling authority.

H) If the recommendation of either the controlling authority, as in 36.110, 3, F) 1), or the City Council, as in 36.110, 3, G, is to result in further review and investigation of the controlling authority, the process in 36.110 shall begin anew.

I) If the recommendation of the controlling authority is accepted by the City Council, its effect is binding and immediate and the candidate, officer, official or employee has been deemed guilty of a violation of the Ethical Standards of Conduct ordinance offending all persons, the City Council, boards, and commissions, of the City of Bangor.

36.120 VIOLATIONS OF ORDINANCE

Punitive action recommended by the controlling authority and adopted by the City Council shall be findings of violations of this Ordinance whether or not a court of competent jurisdiction has also found a violation of the Ordinance. While the City Council may find a person or persons guilty of misconduct and take punitive action against the guilty party, including removal of office, only a court of competent jurisdiction may convict a person for violations of this ordinance. Every person convicted of a violation of this ordinance, by a court of competent jurisdiction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by a sentence of not more than 93 days in jail, or both, at the discretion of the court.

36.130 EFFECTIVE DATE

This ordinance shall become effective thirty (30) days after its adoption and publication.

36.140 RECORD OF ADOPTION

This ordinance was voted upon at a regular meeting of the City Council on January 7, 2002.

AYES: P. Wiles, D. Foot, R. Freisinger, M.L. Garcia, N. Johnson

NAYES: R. Sutherby

PRESENTED: December 3, 2001, December 17, 2001 and January 7, 2002

ADOPTED: January 7, 2002

PUBLISHED: January 14, 2002

EFFECTIVE DATE: February 15, 2002

CERTIFICATION

I, Adeline Starks, the duly appointed Clerk of the City of Bangor, do hereby certify that the above is a true and exact copy of a Resolution, passed by the Bangor City Council, on January 7, 2002, the original of which is on file at the Bangor City Hall

Adeline Starks
Adeline Starks, City Clerk

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Facsimile (616) 427-7267
e-mail address: verdonkdistefano@cybered.comJOHN H. VERDONK
OF COUNSEL**MEMO**

TO: Larry Nielson, City Manager

FROM: David J. DiStefano, City Attorney

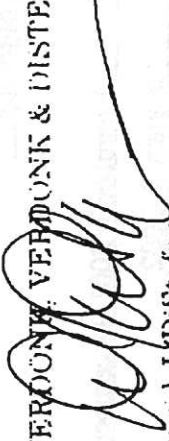
DATE: December 6, 2001

RE: Ethical Standards of Conduct

I believe the Ordinance is appropriate and would fill the void left by our Charter and State statutes that do not specifically address ethical conduct. I have no changes to suggest with the same and would support adoption of same.

Sincerely,

VERDONK, VERDONK & DISTEFANO


David J. DiStefano

LJD/psb