

**TITLE III: ADMINISTRATION**

**Chapter**

- 30. CITY COUNCIL**
- 31. CITY ADMINISTRATIVE BODIES**
- 32. FINANCE AND TAXATION**
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## CHAPTER 30: CITY COUNCIL

### Section

#### 30.01 Regular Council meetings

#### **§ 30.01 REGULAR COUNCIL MEETINGS.**

The regular scheduled meetings of the City Council will be held at 14 Pine Street within the city on the first and third Mondays of each month, commencing at 7:00 p.m.

(Ord. 169, passed 6-8-87; Am. Ord. 212, passed 1-2-96)

***Cross-reference:***

*For further provisions concerning the City Council, see Charter Sections 5.1, 5.2 and Charter Chapter VII*

*Meetings of the Council, see Charter Section 7.3*

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## CHAPTER 31: CITY ADMINISTRATIVE BODIES

### Section

#### *Arts Council*

- 31.01 Establishment
- 31.02 Functions
- 31.03 Appointment and term
- 31.04 Organization
- 31.05 Absence from meetings; filling of vacancies
- 31.06 City assistance

#### *Economic Development Corporation*

- 31.20 Articles of incorporation adopted
- 31.21 Board of Directors; appointments
- 31.22 Removal from office
- 31.23 Disclosure of interest

#### ***Cross-reference:***

*City Tree Board, see § 98.30*

### **ARTS COUNCIL**

#### **§ 31.01 ESTABLISHMENT.**

There is hereby established a Council, composed of seven members, recommended biannually, to serve without compensation, representing as nearly as possible the various vocations and trades, social, ethnic, religious and age groups interested in the arts and in the future of the Bangor School District, Townships of Arlington, Bangor, Columbia and Geneva.  
(Ord. 193, passed 4-22-91)

**§ 31.02 FUNCTIONS.**

The functions of the Bangor Arts and Crafts Council shall be as follows:

(A) To promote mutual understanding and respect among all citizens with regard to the arts.

(B) To advise the Bangor City Council concerning the initiation and direction of programs for the arts development which the Bangor Arts and Crafts Council may, from time to time, establish in order to provide exposure for citizens of all cultural and ethnic backgrounds to the arts.

(C) To disseminate information concerning the arts in the Bangor School District and Townships of Arlington, Bangor, Columbia and Geneva as well as the surrounding area.

(Ord. 193, passed 4-22-91)

**§ 31.03 APPOINTMENT AND TERM.**

(A) The Board of Directors of the Bangor Arts Council (Council) shall consist of seven members. The membership of the Council shall recommend members for appointment or reappointment. The Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council shall appoint persons where a quorum exists. Employees of the City of Bangor may be appointed as resource persons adding background and technical information but shall have no vote in matters before the Council. All members of the Council shall serve without compensation. All members of the Council shall have the full rights of membership on the Council and may move, support or otherwise vote on all motions and matters before the Council. The term of other members shall be for designated terms of four years or until his or her replacements are appointed. Members of the first Board of Directors shall be appointed for staggering terms with two being appointed for one year, two being appointed for two years, two being appointed for three years, and the remaining member appointed for four years. Members of the Council may be removed in accordance with Ordinance 258 - Ethical Standards of Conduct (codified herein as Chapter 36) or for violations of the City Charter. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists.

(B) Each member of the Board shall be a resident of the Bangor School District or the Townships of Arlington, Bangor, Columbia or Geneva during the term of office. At least four members of the Board shall be residents of the City of Bangor.

(Ord. 193, passed 4-22-91; Am. Ord. 270, passed 6-21-04)

**§ 31.04 ORGANIZATION.**

The Arts and Crafts Council shall select the Chairman, Secretary and such other officers as they shall deem necessary. The Arts and Crafts Council shall establish its own rules and procedures not inconsistent with this subchapter.

(Ord. 193, passed 4-22-91)

**§ 31.05 ABSENCE FROM MEETINGS; FILLING OF VACANCIES.**

(A) Notwithstanding any of the provisions of this section, any member who absents himself from any three consecutive regular meetings of the Arts and Crafts Council, unless excused from attendance by consent of the Council, expressed by action of record in its official minutes, shall thereby automatically forfeit his position or office as a member of said Arts and Crafts Council and the name of such person shall be automatically removed from the membership of the Council immediately after the adjournment of any such third consecutive meeting at which such member has not appeared. The Secretary of the Council shall thereupon promptly notify the removed member and the City Manager of the fact of such removal. The City Council thereupon shall appoint a new Arts and Crafts Council member, recommended by the membership to serve the remainder of the unexpired term of the member so removed.

(B) Vacancies occurring in the office of Arts and Crafts Council members, whether by expiration of term, moving from the area, or otherwise, shall be filled by appointment of the City Council with a recommendation from the membership. Such appointee shall serve for the remainder of the then current unexpired term of such office.

(Ord. 193, passed 4-22-91)

**§ 31.06 CITY ASSISTANCE.**

The city, through the City Manager's office, may provide the Bangor Arts and Crafts Council with assistance as may be deemed required by the City Manager.

(Ord. 193, passed 4-22-91)

**ECONOMIC DEVELOPMENT CORPORATION****§ 31.20 ARTICLES OF INCORPORATION ADOPTED.**

Articles of Incorporation dated and filed with the Bangor City Clerk on December 21, 1977, are hereby approved and accepted and incorporated by reference into this section, the same as if set forth in full herein.

(Ord. 126, passed 2-27-78)

**Statutory reference:**

*Approval of application, see M.C.L.A. § 125.1604(1)*

*Economic Development Corporations Act, see M.C.L.A. §§ 125.1601 et seq.*

**§ 31.21 BOARD OF DIRECTORS; APPOINTMENTS.**

(A) The Board of Directors of the Bangor Economic Development Corporation (Board) shall consist of nine members. These members shall be the Mayor or the Mayor's designee as long as that person is a qualified elector residing in the City of Bangor, one member of the City Council and seven other persons. If the Mayor chooses to appoint a designee in his or her place, that designee shall serve in a non-voting capacity. At least two shall be representatives of neighborhoods likely to be affected by activities of the Corporation. Employees of the City of Bangor may be appointed as resource persons adding background and technical information but shall have no vote in matters before the Board. All members of the Board shall serve without compensation. The Mayor nor the Council member who serve on the Board shall not be compensated for their service even though they may be compensated for their service as Mayor or as a Council Member. Except for the Mayor's designee and employees of the city, all members shall have the full rights of membership on the Board and may move, support or otherwise vote on all motions and matters before the Board. The Mayor shall serve for the term for which he was elected Mayor. The Mayor's designee shall terminate with the term of the Mayor selecting him or her. The term of the Council member appointed as a member of the Board shall terminate with the term to which he or she was elected. The term of other members shall be for designated terms of six years or until his or her replacements are appointed. Members of the first Board of Directors shall be appointed for staggering terms with one being appointed for one year, one being appointed for two years, one being appointed for three years, one being appointed for four years, one being appointed for five years, and the remaining members appointed for six years. Members of the Board of Directors, except for the Mayor and the Council member appointed to serve on the Board may be removed in accordance with Ordinance 258 - Ethical Standards of Conduct (codified herein as Chapter 36) or for violations of the City Charter.

(B) Members shall be appointed by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists.

(C) Subsequent directors shall be appointed in the same manner as the original appointments at the expiration of each director's term.



(D) A director whose term has expired shall continue to serve until his or her replacement is appointed. A director may serve more than one term. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists. (M.C.L.A. § 125.1604(2) through (5)) (Ord. 126, passed 2-27-78; Am. Ord. 271, passed 6-21-04)

**§ 31.22 REMOVAL FROM OFFICE.**

A Director may be removed from office for inefficiency, neglect of duty, or misconduct or malfeasance by a majority vote of the City Council.  
(M.C.L.A. § 125.1604(6)) (Ord. 126, passed 2-27-78)

**§ 31.23 DISCLOSURE OF INTEREST.**

A director who has a direct interest in any matter before the Corporation shall disclose his interest prior to the Corporation taking any action with respect to the matter, which disclosure shall become a part of the record of the Corporation's official proceedings. The interested director shall further refrain from participation in the corporation's proceedings related to the matter.  
(M.C.L.A. § 125.1604(7)) (Ord. 126, passed 2-27-78)



## CHAPTER 32: FINANCE AND TAXATION

### Section

#### *Purchasing Procedures*

- 32.01 Purchases by employees
- 32.02 Purchases by appointive administrative officers
- 32.03 Purchases by City Council
- 32.04 Purchases requiring competitive bids
- 32.05 Sales of property or services of the city to be authorized by Council

#### *Property Taxes*

- 32.15 When taxes due and payable
- 32.16 Collection fee for late payment
- 32.17 Uncollected taxes subject to interest
- 32.18 Taxes for state, county and school purposes

#### ***Cross-reference:***

*For general finance provisions, see Charter Chapter IX*

*For taxation provisions, see Charter Chapter X*

*For purchases, contracts, and leases, see Charter Chapter XII*

### **PURCHASING PROCEDURES**

#### **§ 32.01 PURCHASES BY EMPLOYEES.**

Any employee of the city may, upon authorization of the appointive administrative officer who is the head of the department of city government in which said employee is employed, expend an amount not to exceed \$50 for purchase of goods or services for the department in which he is employed, for any one contract.

(Ord. 68, passed 6-24-68)

**§ 32.02 PURCHASES BY APPOINTIVE ADMINISTRATIVE OFFICERS.**

(A) Any appointive administrative officer of the city may purchase goods or contract for services to be rendered to the city, for the Department of City Government under his general jurisdiction for any sum of money not to exceed \$250 for any one contract. This section shall not apply to the City Attorney, Building Inspector, Health Officer, or City Manager.

(B) The Fire Chief may expend funds as authorized in the Fire Protection Agreement existing between the City of Bangor and the Townships of Columbia, Geneva, Arlington and Bangor.

(C) Any purchase of goods or contract for services to be rendered to the city, in excess of \$50, shall be made only upon the authorization of the appointive administrative officer as hereinbefore provided, in writing, upon forms to be furnished by the city in the nature of purchase requisition forms or purchase orders, which forms shall be signed by the City Manager or City Clerk and shall be dated, directed to the person, firm or corporation from whom said purchase is to be made or by whom said service is to be performed, and shall describe the quantity, nature and price of said goods or services, and the terms of sale.

(D) In the absence of any administrative officer of the city, or in the event of his incapacity to perform his duties, the City Manager may authorize purchases of goods or services on behalf of the other appointive administrative officer. In the absence of both such persons or their concurrent disability or incapacity to perform their respective duties, such purchases of goods or services may be authorized by any two members of the City Council.

(Ord. 68, passed 6-24-68)

**§ 32.03 PURCHASES BY CITY COUNCIL.**

The City Council may, upon the terms above set forth, purchase goods or services for the city, for any sum up to \$1,000. Purchase requisitions for purchase of goods or services authorized by the Council may be signed by the City Clerk or Mayor, according to the Charter.

(Ord. 68, passed 6-24-68)

**§ 32.04 PURCHASES REQUIRING COMPETITIVE BIDS.**

(A) Any purchase of goods or services for the city for any sum in excess of \$5,000 shall be made only after competitive bids have been solicited and received for such purchase. Nothing in this section shall be construed to limit the right of the City Council to solicit and receive competitive bids for purchase of goods or services in any amount less than \$5,000.

(B) The City fully complies with Public Acts 167 and 168 of 1993 by virtue of § 12.2 of the City of Bangor Charter and by adoption of City of Bangor Ordinance No. 68 which was duly enacted by the

Bangor City Council on June 24, 1968.  
(Ord. 68, passed 6-24-68; Am. Ord. 204, passed 4-18-94)

**§ 32.05 SALES OF PROPERTY OR SERVICES OF THE CITY TO BE AUTHORIZED BY COUNCIL.**

Sales of personal property or services of the city shall be made upon the authorization of the City Council only.  
(Ord. 68, passed 6-24-68)

***PROPERTY TAXES***

**§ 32.15 WHEN TAXES DUE AND PAYABLE.**

Taxes which are levied upon property both real and personal within the corporate limits of the city shall become due and payable to the City Treasurer on the first day of July of each year.  
(Ord. 66, passed 6-10-68)

**§ 32.16 COLLECTION FEE FOR LATE PAYMENT.**

Taxes paid on or after September 17 of the current year and on or before the last day of February of the next following year upon which the roll was received by the City Treasurer shall be subject to payment of a 4% collection fee for late payment thereof, which fee shall belong to the city, and shall be a lien upon the property to which said taxes shall apply, and collected in the same manner as the taxes to which they are added.  
(Ord. 66, passed 6-10-68; Am. Ord. 172, passed 6-22-87)

**§ 32.17 UNCOLLECTED TAXES SUBJECT TO INTEREST.**

All city taxes uncollected by the City Treasurer on the first day of March next following the date when the roll was received by him shall be subject to payment of interest at the rate of 1% per month from the date when due, to be levied and collected in the same manner as the charges set forth in § 32.16. Taxes and charges upon real property shall be returned to the County Treasurer for collection on the first day of March next following receipt of said roll.  
(Ord. 66, passed 6-10-68; Am. Ord. 172, passed 6-22-87)

**§ 32.18 TAXES FOR STATE, COUNTY AND SCHOOL PURPOSES.**

Taxes levied and collectable by the city for state, county and school purposes, shall be payable on the date established for the collection of such taxes by the township treasurers of the County of Van Buren, and the Treasurer of the City of Bangor shall levy and collect together with such taxes the maximum amount which can be collected under the applicable state statutes by township treasurers as collection fees and charges for late payment, which such collection fees and charges shall belong to the City of Bangor.

(Ord. 66, passed 6-10-68)

## CHAPTER 33: PERSONNEL

### Section

#### *Unemployment Compensation System*

- 33.01 Establishment of system
- 33.02 Definitions
- 33.03 Employees covered; employees and persons not covered
- 33.04 Eligibility for benefits; disqualifications
- 33.05 Benefit rates

#### *Cross-reference:*

*General provisions, see Charter Chapter VI*

### **UNEMPLOYMENT COMPENSATION SYSTEM**

#### **§ 33.01 ESTABLISHMENT OF SYSTEM.**

There is hereby established an unemployment compensation system and benefit plan for employees of the city to be administered by the Civil Service Board of the city.  
(Ord. 103, passed 1-13-75)

#### **§ 33.02 DEFINITIONS.**

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

**AVERAGE WEEKLY WAGE.** With respect to a base period of employment, shall be the amount determined by dividing total wages paid by the city for credit weeks earned in the employment of the city by the number of such credit weeks chargeable to the city as employer.

**BASE PERIOD.** The period of 52 consecutive calendar weeks ending with the day immediately preceding the first day of an individual's benefit year.

**BENEFIT YEAR.** With respect to any individual, the term means the period of 52 consecutive calendar weeks beginning with the first calendar week with respect to which the individual, who does not already have a benefit year in effect, files a claim for benefits under this chapter provided that the individual has earned wages of at least \$25.01 in 14 or more calendar weeks within the base period. Each such week shall be a "Credit Week."

**BENEFITS.** The money payments payable to an eligible and qualified individual, as provided in this chapter, with respect to unemployment.

**SECRETARY-EXAMINER.** The Secretary-Examiner of the Civil Service Board.

**UNEMPLOYED.** An individual shall be deemed unemployed with respect to any week during which he performs no services and with respect to which no remuneration is payable to him, or with respect to any week of less than full time work if the remuneration payable to him is less than his weekly benefit rate.

**WAGES.** Remuneration paid for employment but the term shall not include any employee payment for life or health insurance pension, equipment allowance or similar payment.  
(Ord. 103, passed 1-13-75)

### § 33.03 EMPLOYEES COVERED; EMPLOYEES AND PERSONS NOT COVERED.

(A) Except as provided by division (B) below, employees covered by this unemployment compensation system shall consist exclusively of the employees in the classified Civil Service of the City of Bangor as defined by the Charter and by the rules and regulations of the Civil Service Board.

(B) Employees not covered by this unemployment compensation system shall be:

(1) Employees in the unclassified service including but not limited to elected and appointed officials.

(2) Persons providing contractual service to the city as specialists, independent contractors or employees thereof.

(3) Employees who are or were at the time of their employment by the city, students enrolled on a regular basis in high school, college, graduate school or any other school in which their primary status is clearly that of a student or any persons hired as students.

(4) Seasonal, temporary, and part-time employees as defined by the rules of the Civil Service Board.

(5) Service performed by an individual where compensation is derived at least 50% from



federal funds received under a specific federal program for which an application was made and whose employment is terminated due to discontinuance of the federal funding.

(6) Service by a student under the age of 18 regularly attending either a public or private school below the college level, and the employment was part-time or within the vacation period of the school, or a part of the school curriculum.

(C) An employee shall not be eligible for benefits under the unemployment compensation system established by this chapter, if the unemployment shall result from:

(1) Retirement under any future retirement system covering city employees.

(2) Discharge or suspension for misconduct connected with one's work, for absence due to imprisonment, or for an act of assault, theft or sabotage connected with his work.

(3) Resignations, including resignations in lieu of discharge.

(4) Leaves of absence for any reason, whether voluntary or involuntary.

(5) Temporary separations made at the request of the employee.

(6) Participation or direct interest in a labor dispute including any strike, unauthorized work stoppages, or other concerted action.

(Ord. 103, passed 1-13-75)

#### **§ 33.04 ELIGIBILITY FOR BENEFITS; DISQUALIFICATIONS.**

(A) A claimant to be eligible for benefits in the manner prescribed by the Secretary-Examiner must further:

(1) Be able and available to perform full-time work which he is qualified to perform by past experience or training, and of a character generally similar to work for which he has earned wages; and

(2) Be in compliance with registration and reporting requirements; and

(3) Be seeking work.

(B) A claimant is disqualified from receiving benefits if the Secretary-Examiner finds that an individual is unemployed due to an ineligible termination or separation as specified in § 33.03(C), has left his work voluntarily or has accepted permanent full-time work with another employer, or has failed without just cause to apply for available suitable work or has failed to accept suitable work when offered or has failed when directed to return to his customary work.

(Ord. 103, passed 1-13-75)

**§ 33.05 BENEFIT RATES.**

Benefit payments shall begin with the effective date of unemployment and shall be calculated according to the following rules:

(A) The weekly benefit rate and amount of the weekly benefit payment shall be determined in accordance with all of the provisions as set forth in Section 27 of the Michigan Employment Security Act, being M.C.L.A. § 421.27, and as set forth in the MESA Weekly Benefit Rate Table in effect at the time an employee is laid off.

(B) The dependency class category of a laid off employee shall be determined as stipulated and provided by the Michigan Employment Security Act. A dependent shall be as defined by the Michigan Employment Security Act.

(C) Employees shall be entitled to three weeks of benefits for each four credit weeks earned working for the city up to a maximum of 26 weeks of benefits for 35 earned credit weeks, provided that the claimant has worked at least 35 weeks in the 52 weeks preceding the week in which the claimant applied for benefits. In case an individual is employed only by the city for 34 weeks out of the 52 weeks preceding the week in which the claimant applied for benefits, said employee shall be entitled to a maximum of 26 weeks of benefits. The minimum duration shall not be less than 10½ weeks if the claimant worked 14 weeks and earned at least \$25.01 in each week.

(D) Any change in the rate of regular benefits and their duration that would be mandatory to meet the requirements for equivalency with the Michigan Employment Security Act shall become effective on the same day to change the method of determination of amounts of benefit payments as provided in this section.

(Ord. 103, passed 1-13-75; Am. Ord. 105A, passed 11-10-75)

## CHAPTER 34: CIVIL EMERGENCIES

### Section

- 34.01 Intent and purpose
- 34.02 Definitions
- 34.03 Organization for emergency services
- 34.04 Emergency Services Coordinator and assistants
- 34.05 City Manager powers and duties
- 34.06 Volunteer citizens
- 34.07 Right of city employees
- 34.08 Governmental or private liability
- 34.09 Conflicting regulations
- 34.10 Violations

### *Statutory reference:*

*Emergency Management Act, see M.C.L.A. §§ 30.401 et seq.*

### **§ 34.01 INTENT AND PURPOSE.**

(A) It is the intent and purpose of this chapter to establish an organization that will insure the complete and efficient utilization of all municipal resources during periods of emergency and disaster.

(B) The City Office of Emergency Services will be the coordinating agency responsible for city wide emergency preparedness: it will provide the means through which the City Council and the City Manager may exercise the authority and discharge the responsibilities vested in them by this chapter and Public Act 390 of 1976, being M.C.L.A. §§ 30.410 through 30.420.

(C) This chapter will not relieve any elected officials or municipal departments of the normal responsibilities or authority given by general law or local ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in a natural disaster.

(Ord. 144, passed 7-14-80)

**§ 34.02 DEFINITIONS.**

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

**CITY MANAGER.** The Chief Administrative official of the city.

**COORDINATOR.** A person appointed to coordinate emergency planning and services within the city or as prescribed in this chapter. In the absence of an appointed person, **COORDINATOR** shall mean the City Manager.

**DISASTER.** An occurrence or imminent threat of widespread or severe carnage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, snow, ice or wind storm, wave action, oil spills, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous, peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action, and includes similar occurrences resulting from terrorist activities, riots, or civil disorders.

**DISTRICT COORDINATOR.** The State Police District Emergency Management Division District Coordinator or his authorized representative.

**EMERGENCY OPERATIONS PLAN.** The City Emergency Operations Plan which has been prepared under § 34.04 of this chapter to coordinate disaster response and recovery within the city.

**EMERGENCY SERVICES.** Includes preparations for, and relief from, the effects of natural and man-made disasters as defined herein, and also includes civil defense.

**EMERGENCY SERVICES FORCES.** All disaster relief forces; all agencies of the municipal government, private and volunteer personnel, public officers and employees; and all other persons or groups of persons having duties or responsibilities under this chapter or pursuant to a lawful order or directive authorized by this chapter.

**EMERGENCY SERVICES VOLUNTEERS.** Any person duly registered and appointed by the coordinator and assigned to participate in the Emergency Services activity.

**EMERGENCY SITUATION.** Any situation confronting a community requiring emergency action of a lesser nature than a disaster, as defined above, to include, but not limited to, civil disturbance, labor strikes, visits by national or international dignitaries, and build-up activities prior to an actual disaster.

**STATE OF DISASTER.** A declaration by executive order or proclamation by the Governor under the provision of Public Act 390 of 1976, being M.C.L.A. §§ 30.410 through 30.420, which activates the disaster response and recovery aspects of state, and local interjurisdictional disaster emergency plans and authorizes the deployment and use of any forces to which the plan or plans apply.

**STATE OF EMERGENCY.** A declaration by the Mayor pursuant to this chapter which activates the disaster response and recovery aspects of the city emergency operations plan and authorizes the deployment and use of any municipal forces to which the plan applies.

(M.C.L.A. § 30.402) (Ord. 144, passed 7-14-80)

**§ 34.03 ORGANIZATION FOR EMERGENCY SERVICES.**

(A) The City Manager with the approval of the Council, is hereby authorized and directed to create an organization to prepare for community disasters utilizing to the fullest extent existing agencies within the municipality. The City Manager as executive head of the city government, shall be the director of the emergency services forces of the city and shall be responsible for their organization, administration and operation, working through the Coordinator.

(B) The organization for providing emergency services shall consist of the following:

(1) An Office of Emergency Services established within city government. The Office of Emergency Services shall have an administrative head appointed who will be known as the Coordinator, Office of the Emergency Services. Such assistants and other employees as are deemed necessary for the proper functioning of the organization will be employed.

(2) The employees, equipment and facilities of all municipal departments, boards, institutions and commissions suitable for, or adaptable to emergency services activities may be designated as part of the total emergency services forces. Such designations shall be by the City Manager with the approval of the Council.

(C) All officers and employees of departments, commissions, boards, institutions and other agencies of the city government designated by the City Manager with the approval of the Council, as emergency service forces shall cooperate with the Emergency Services Coordinator in all matters pursuant to the provisions of this chapter.

(Ord. 144, passed 7-14-80)

**§ 34.04 EMERGENCY SERVICES COORDINATOR AND ASSISTANTS.**

(A) The City Manager, with the approval of the Council, shall appoint an Emergency Services Coordinator who shall be a person with the personal attributes, experience and training needed to coordinate the activities of the agencies, departments and individuals within the city to protect the public health and safety and welfare during emergency situations and disasters.

(B) Assistant Coordinators shall be designated to work with the Coordinator on emergency planning matters. Assistant Coordinators shall be selected and shall serve as follows:

(1) There shall be one such Assistant Coordinator appointed from each city department as designated by the department head, with the approval of the City Manager, as part of the emergency services forces.

(2) Assistant Coordinators shall assume the duties of the Coordinator whenever he is unavailable during disasters or emergency situations in the order of designation by the City Manager, acting upon the recommendation of the Coordinator.

(C) The Emergency Services Coordinator shall be responsible for the administration, planning, coordination and operation of all emergency preparedness activities in the city. He shall maintain liaison with county, state, and federal authorities and the authorities of adjacent and nearby political subdivisions so as to insure the most effective emergency operations.

(D) His duties shall include, but not be limited to the following:

(1) Development of the city emergency operation plan, and any other appropriate disaster plans for the immediate use of all the facilities, equipment, manpower, and other resources of the city for the purpose of minimizing or preventing damage to persons or property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and general welfare.

(2) Coordinating the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the city for emergency purposes.

(3) Through public information programs, educating the population as to actions necessary and required for the protection of persons and property in case of a disaster.

(4) Conducting practice alerts and exercises to insure the efficient operations of the city's emergency organization and to familiarize residents of the city with emergency regulations, procedures and operations.

(5) Coordinating the activity of all other public and private agencies engaged in any emergency or disaster relief programs.

(6) Negotiating with owners or persons in control of buildings or other property for the use of such buildings or property for emergency or disaster relief purposes, and designating suitable buildings as public shelters.

(7) Establishing and maintaining administrative control over a local radiological defense program, to include emergency preparations for both peacetime radiation incidents and international wartime disaster.

(8) Coordinating municipal emergency preparedness activities with those at the county level and adjacent municipalities.

(Ord. 144, passed 7-14-80)

**§ 34.05 CITY MANAGER POWERS AND DUTIES.**

(A) The City Manager may exercise the emergency power and authority as specified herein. Whenever a situation requires, or is likely to require, that the City Manager invoke such power and authority, he shall, as soon as reasonably expedient, convene the Council to perform its legislative and administrative duties as the situation demands, and shall report to that body relative to emergency activities. Nothing in this chapter is abridging or curtailing to the powers of the Council unless specifically provided herein.

(B) Under the following circumstances, the Mayor may declare a state of emergency exists in the city and may authorize the City Manager to or may assemble and utilize the emergency services forces in accordance with the city emergency operations plan, and he may prescribe the manner and conditions of the use of such emergency services forces:

(1) Whenever, on the basis of information received from authoritative sources, he feels that a large scale disaster or emergency situation in the city or state is imminent.

(2) During any period of disaster in the city or state and there after as long as he shall deem it necessary.

(C) Whenever the Mayor deems that any condition in the city is beyond the control of local public agencies, or has attained or threatens to attain the proportions of a major disaster, he may request the governor to declare a state of disaster exists therein by instructing the Coordinator to contact the District Coordinator in accordance with Public Act 390 of 1976, § 14, being M.C.L.A. § 30.414.

(D) The City Manager, with the approval of the Council, is hereby empowered and has the authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for disaster purposes.

(2) To provide for the health and safety of persons and property including emergency assistance to the victims of a disaster.

(3) To assign and make equipment available for duty, the employees, property, or equipment of the municipality relating to fire fighting; engineering; rescue; health; medical, and related services; police; transportation; construction; and similar items or services for disaster relief purposes within or without the physical limits of the municipality.

(4) In the event of a foreign attack upon this state, to waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

(E) The City Manager, with the approval of the Council, shall establish procedures for the succession of government during emergencies where officials are unavailable for exercising the powers and discharging the duties of their respective offices.

(F) The City Manager, with approval of the Council, may make regulations permitting the Coordinator to assemble and utilize the Emergency Services Forces and provide disaster relief aid as prescribed in divisions (B), (C) and (D) above.

(G) When obtaining formal approvals would result in delay of relief activity, the City Manager may, until the Council convenes, waive procedures and formalities otherwise pertaining to performing public works, entering into contracts, the incurring of obligation, the employment of temporary workers, the rental of equipment, the purchase and distribution of supplies, materials and facilities and expenditure of existing funds, and the Council is also empowered to waive any such procedures and formalities.

(Ord. 144, passed 7-14-80)

#### **§ 34.06 VOLUNTEER CITIZENS.**

(A) Each department, commission, board, or other agency of the city government may at any time appoint or authorize the appointment of volunteer citizens to augment the personnel of such city department, commission, board, or agency in time of emergency. Such individuals shall enroll as Emergency Services Volunteers and shall be subject to the rules and regulations set forth by the respective department, commission, board, or agency head for such volunteers.

(B) The Coordinator may enlist volunteer citizens to form the personnel of an emergency service for which the city has no counterpart, or to temporarily augment personnel of the city engaged in emergency activities. The Coordinator shall maintain formal records of all such volunteers for workman's compensation purposes.

(Ord. 144, passed 7-14-80)

#### **§ 34.07 RIGHT OF CITY EMPLOYEES.**

City employees assigned to duty as a part of the emergency services forces pursuant to the provisions of this chapter shall retain all of the rights, privileges, and immunities of city employees, and shall receive the compensation incident to their employment.

(Ord. 144, passed 7-14-80)

#### **§ 34.08 GOVERNMENTAL OR PRIVATE LIABILITY.**

(A) This chapter is an exercise by the city of its governmental functions for the protection of the public health, safety and general welfare. As such neither the city nor agents and representatives of



the city, nor any individual, receiver, firm, partnership, corporation, association, nor trustee, nor any of the agents thereof acting in good faith carrying out, complying with, or attempting to comply with this chapter shall be liable for any damage sustained to persons or property as a result of said activity.

(B) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during a disaster or during an authorized practice disaster exercise, shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such person.

(Ord. 144, passed 7-14-80)

**§ 34.09 CONFLICTING REGULATIONS.**

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all other existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent therewith.

(Ord. 144, passed 7-14-80)

**§ 34.10 VIOLATIONS.**

It shall be unlawful for any person willfully to obstruct, hinder or delay any emergency services forces in the enforcement or accomplishment of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or other means of identification as a member of the emergency services forces of the city unless authority to do so has been granted to such person by proper officials.

(Ord. 144, passed 7-14-80) Penalty, see § 10.99



## CHAPTER 35: ORDINANCE ENFORCEMENT

### Section

35.01 Officials granted authority to issue appearance citations

#### § 35.01 OFFICIALS GRANTED AUTHORITY TO ISSUE APPEARANCE CITATIONS.

The Building Inspector, Building Official, Electrical Inspector, Zoning Administrator and code enforcement officers or their duly appointed representatives are hereby granted the authority to issue appearance citations for violations of the city construction and municipal codes or any other city ordinances.

(Ord. 206, passed 1-16-95)

***Cross-reference:***

*Municipal civil infraction actions and citations, see Ch. 12*



## 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.

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(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 fixture 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

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(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)



## CHAPTER 37: TAX EXEMPTION

### Section

- 37.01 Preamble
- 37.02 Definitions
- 37.03 Class of housing developments
- 37.04 Establishment of annual service charge
- 37.05 Limitation on the payment of annual service charge
- 37.06 Contractual effect
- 37.07 Payment of service charge
- 37.08 Duration

### § 37.01 PREAMBLE.

(A) It is acknowledged that it is proper public purpose of the state and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (Public Act 346 of 1966, as amended, M.C.L.A. §§ 125.1401 et seq., M.C.L.A. §§ 116.114(1) et seq.). The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this chapter for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such exemption.

(B) The city acknowledges that Trinity Village Non-Profit Housing Corporation, a state non-profit corporation, with its offices located at 2140 Valley Street, Muskegon, Michigan 49444 (Sponsor) has offered subject to receipt of a reservation of low income housing tax credits ("LIHTC") from the State Housing Development Authority, and mortgage loan financing to sponsor a housing development identified as Trinity Village Bangor on certain property located at 333 Cemetery Road (Section 10, portion of Parcel 4-550) in the city to be constructed, owned and operated by a yet to be formed Michigan limited dividend housing association limited partnership and to serve persons of low income, and that sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

(Ord. 259, passed 1-7-02)

**§ 37.02 DEFINITIONS.**

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

**ACT.** The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

**ANNUAL SHELTER RENT.** The total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric, heat, or other utilities furnished to the occupants.

**AUTHORITY.** The Michigan State Housing Development Authority.

**CODE.** The Internal Revenue Service Code of 1986 as amended.

**FAMILY HOUSING.** Units constructed for families of low income whether they may also be elderly or handicapped as defined by the Authority and/or the Act.

**HOUSING DEVELOPMENT.** A development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons of low income.

**LOW INCOME PERSONS OR FAMILIES.** The same as found in Section 15(a)(7) of the Act.

**MORTGAGE LOAN.** A loan to be made by the Authority to the sponsor for the construction of permanent financing of the housing development.

**SPONSOR.** Persons or entities which have applied to the Authority for a reservation for low income housing tax credits to develop and/or finance a housing development.

**TAXES.** Those ad valorem assessments levied against real and personal property in the city exclusive of special assessments which may be specifically authorized or voted upon in addition to the levied real and personal property taxes.

**UTILITIES.** Fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

(Ord. 259, passed 1-7-02)

**§ 37.03 CLASS OF HOUSING DEVELOPMENTS.**

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be for low income persons or families, which are financed or assisted pursuant to the Act.

(Ord. 259, passed 1-7-02)

**§ 37.04 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

The housing development identified as Trinity Village Bangor and the property on which it is constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this chapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter, and in consideration of the sponsor's offer, subject to receipt of a reservation of low income housing tax credits from the Authority and a mortgage loan to cause the construction, ownership and operation of the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to 10% of the difference between the annual shelter rents actually collected and utilities.

(Ord. 259, passed 1-7-02)

**§ 37.05 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.**

Notwithstanding § 37.04, the service charge to be paid each year in lieu of property taxes for the part of the housing development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not exempt.

(Ord. 259, passed 1-7-02)

**§ 37.06 CONTRACTUAL EFFECT.**

Notwithstanding the provisions of Section 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the Authority as a third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of Ordinance 259.

(Ord. 259, passed 1-7-02)

**§ 37.07 PAYMENT OF SERVICE CHARGE.**

The service charge in lieu of taxes as determined under this chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(Ord. 259, passed 1-7-02)

**§ 37.08 DURATION.**

This chapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property; provided that construction of the housing development commences within one year from the effective date of this chapter.

(Ord. 259, passed 1-7-02)