

**ORDINANCE NO. 2000 - 23**

**AN ORDINANCE TO AMEND CHAPTER 2 OF THE ALLEN PARK CODE OF ORDINANCES TO ADD A NEW ARTICLE TO CREATE STANDARDS OF CONDUCT AND AN ADMINISTRATION OF THE STANDARDS**

**The City of Allen Park Ordains:**

**SECTION 1. AMENDMENT TO CODE.**

Chapter 2 of the Allen Park Code of Ordinances is hereby amended to include the following new article:

**ARTICLE XVIII**

**DIVISION 1. STANDARDS OF CONDUCT**

**Section 2-350. Purpose.**

The Standard of Conduct Ordinance is to provide guidelines and standards pursuant to the Charter of the City of Allen Park to continue and foster the following principles for Elected and Appointed Officials:

A. Treat public office as a public trust, using the powers and resources of public office only to advance public interest and not to attain personal benefits or pursue any private interest incompatible with the public good.

B. Employ independent, objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and apparent improper influences.

C. Assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizens to make informed judgments and hold government officials accountable for their actions.

D. Honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of the laws and rules.

E. Safeguard public confidence in the integrity of government by being honest, fair, caring, and respectful and by avoiding conduct which creates the appearance of impropriety or which is otherwise unbecoming a public official.

F. Encourage a congenial and productive atmosphere within the City by endeavoring, through their conduct and speech, to treat each other, elected officials, City employees, and the members of the general public, with courtesy and respect.

**Section 2-351. Anti-Nepotism.**

No person shall hold an appointive office or employment under the immediate supervision of a spouse, parent, grandparent, child, brother or sister and their spouses, unless that person held the appointive office or employment prior to the election, appointment or promotion of the immediate supervisor.

**Section 2-352. Political Contributions or Support.**

An officer or employee shall not, directly or indirectly, command or coerce another officer or employee of the City to pay, lend or contribute anything of value to the officer, another person, party or organization for any reason.

**Section 2-353. Political Activity.**

Officers or employees may participate in political activity but shall not conduct any political activity during their work hours.

**Section 2-354. Private Use of City Property.**

No officer or employee shall, without proper authorization, use City property or labor for either their own personal or political benefit or for the personal or political benefit of others.

**Section 2-355. Disclosure of Confidential Information.**

A. No officer, employee, contractor or agent of the City shall disclose any confidential information acquired in the course of holding City office, employment or position to any unauthorized person.

B. No officer, employee or agent of the City shall disclose information provided, obtained or discussed in closed or executive sessions of the City Council or other City Body.

C. Should any officer, employee, contractor or agent of the City have any questions as to whether or not the information to be disclosed is confidential or protected information, the individual may request an opinion from the City Attorney as to whether or not the disclosure would be proper. Any disclosure made by the individual in conformity with the City Attorney's opinion shall not be considered a violation of this section.

**Section 2-356. Use of Official Position or Confidential Information.**

No City officer or employee shall make use of their public position or any confidential information received by them because of their public position, to obtain personal financial gain.

**Section 2-357. Acceptance of Gifts and Contributions.**

No Officer or Employee shall accept or solicit anything of value in connection with the individual's official responsibilities. The following items shall be deemed not to have value:

- a. An unsolicited token or award with a value of less than One Hundred Fifty (\$150.00) Dollars per token or award;
- b. An unsolicited benefit conferred by a person or business if the economic value totals less than One Hundred (\$100.00) Dollars per benefit and if there is no express or implied understanding or agreement that a vote, official action or decision of a public official or employee will be influenced by the benefit;
- c. A discount afforded to the general public or a specified group or occupation under normal business conditions. The discount shall not be based on the fact of public service unless it is a discount program approved by the Board of Ethics; or
- d. Campaign contributions that are made and reported under the Campaign Finance Act, Public Act 388 of 1976, that being MCL 169.201 et. Seq.

**Section 2-358. Conflict of Interest Prohibited.**

A. An Officer or employee shall abstain from acting, formally or informally, on a matter in which the Officer or employee has an interest when the interest is adverse to or could appear to be adverse to the Officer's or Employee's duty to the public interest or would create a conflict of interest as defined in this Article.

B. If an Officer or employee is required to abstain from acting on a matter, the Officer or Employee shall have the reason recorded in the official records of the body or, if none, file a Transactional Disclosure Statement with the City Clerk within Fourteen (14) days.

**Section 2-359. Contracts.**

A. No Officer or Employee shall seek or enter into a contract with the City. This prohibition shall not apply to:

1. The Officer's or Employee's own personnel contract or agreement;  
or
2. A contract that is awarded after public notice and competitive bidding if the Officer or Employee did not participate in preparing the specifications, reviewing of the bids or the awarding of the contract. However, a Transactional Disclosure Statement shall be filed with the City Clerk within Fourteen (14) days after the award of the Contract.

B. No Officer or Employee shall enter into, meet with or negotiate any contact, including but not limited to Employment Contracts, Labor Agreements or Purchase Agreements, on behalf of the City unless the individual has received specific authorization to do so or by customary usage, such is part of the Officer's or Employee's official duties.

**Section 2-360. Financial Conflicts and Disclosure**

An officer or employee, including the employee's or officer's, spouse, parent, grandparent, child, grandchild, brother or sister and their spouses, who has a direct or indirect, substantial interest in any corporation, organization or business associated with the City, shall make that interest known and shall refrain from voting upon or otherwise participating in any transaction involving that corporation, organization or business association. A substantial interest shall be ownership of more than ten (10%) percent of the corporation or business.

**Section 2-361. Annual Financial or Conflict Disclosure.**

A. On or before April 15<sup>th</sup> of each year, the Mayor, City Council members, City Clerk, City Treasurer, all Appointees, City Department Heads and City Commissioners, shall file an annual disclosure statement on the required form with the City Clerk. The Disclosure Statement shall be a public document and open to public inspection.

B. The statement shall disclose and detail any interest the individual or the individual's family has in any company, business or entity doing business with the City for the past year. It shall also state the type of interest, and the nature of the benefits received from the company. If the interest is one of full and sole ownership, the disclosure need only state such and no other disclosure shall be required.

**Section 2-362. Statutory Conduct Allowed.**

Nothing in this Article shall be construed to prohibit an Officer or Employee from exercising those acts specifically permitted by Local Ordinance, Charter, State and Federal Law and Regulations.

**Sections 2-363 Penalties.**

A. A person's unintentional violation of sections 2-352, 2-353, 2-354, 2-357, 2-358, 2-360 and 2-361, shall be a Municipal Civil Infraction with a civil fine as established in Chapter 1, Section 1-7(b).

B. A person's intentional violation of this Article and this Ordinance shall be guilty of a misdemeanor and subject to the penalties provided in Chapter 1, Section 1-7a of the Allen Park Code of Ordinances.

B. In addition to the penalties described in section 2-363A, if the violation of a section of this ordinance by an Officer of the City is declared by the section to constitute misconduct in office, then the Officer shall also forfeit the office so held.

**Sections 2-364 to 2-369. Reserved.**

**DIVISION 2. BOARD OF ETHICS**

**Section 2-370. Purpose.**

The purpose of this Ordinance is to create a Board of Ethics, as required by Article 4.08 of the Allen Park City Charter, to enforce and administer the Standard of Conduct Ordinance and maintain the public confidence in the integrity of its elected and appointed Officers.

**Section 2-371. Creation.**

There is hereby created a Board of Ethics whose function shall be to administer and enforce the Standard of Conduct Ordinance.

**Section 2-372. Composition and Appointment.**

The Board of Ethics shall consist of five (5) members. Members shall be nominated, within thirty (30) days of a vacancy, by the Mayor and approved by the Council as provided for in Article VII of the City Charter. Of the members first appointed, one (1) member each shall be appointed for a term of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years. Thereafter, each member shall serve for a term of five (5) years. No member shall serve more than one (1) full term or portion of a term of office.

**Section 2-373. Qualifications.**

No person shall be eligible for appointment who:

- a. is an elected or appointed officer or employee of the City;
- b. is a member of any other board or commission of the City; or
- c. is a member of any board or commission of any other governmental body or agency.

**Section 2-374. Compensation.**

The members of the Board of Ethics shall receive no compensation for their duties.

**Section 2-375. Organization.**

The Board shall annually elect a Chairperson, who shall serve in that capacity for only one (1) year. The Board shall adopt such other rules of procedure as are necessary and are not inconsistent with this article, other City Ordinances and other laws of the State and Federal government.

**Section 2-376. Powers and Duties.**

The Board of Ethics shall have the following powers and duties:

- a. Make studies of ethical questions in City government;
- b. Advocate and help build public trust in Public Servants
- c. Make such recommendations as necessary to the City Council for amendments to ordinances related to the Standard of Conduct for City officers and employees; and
- d. Conduct hearings upon verified complaints as provided for in the Standard of Conduct Ordinance.
- e. Render advisory opinions when requested by a City officer or employee.

**Section 2-377. Complaint Process.**

A. Any person may file a written, sworn and signed complaint with the City Attorney alleging a violation by any officer or employee of the City of the Standard of Ethics Ordinance. If the alleged violation concerns the City Attorney, then the City Administrator, or at his option, Special Counsel, shall perform the steps required of the City Attorney under this Ordinance. Each complaint shall be based on personal knowledge and shall fully state the facts of the violation.

B. The City Attorney shall, within fourteen (14) days, review the complaint prior to it being submitted to the Board of Ethics and determine:

- i. Whether or not the complaint is in the proper form;
- ii. Whether the complaint falls under the scope and authority of the Board;
- iii. Whether the complaint alleges a prima facie violation of the Standard of Conduct Ordinance;
- iv. Render a non-binding recommendation to the Board of Ethics as to what action the Board should take on the complaint. This recommendation could include requesting a hearing, forwarding the complaint to another agency for investigation or dismissal of the complaint.

C. Upon receipt and review of the Complaint and the recommendation of the City Attorney, the Board of Ethics shall decide upon a course of action.

D. If the Board of Ethics orders a hearing, the date for the hearing shall not be more than thirty (30) days from the date it received the recommendation of the City Attorney. The time limit shall not apply if the matter is referred for investigation under section 2-379. Notice of the hearing shall be given to the officer or employee involved, the immediate supervisor, the City Administrator, the Mayor and Council and the City Attorney by personal service or certified mail, return receipt requested. Notice shall be given not less than ten (10) days prior to the hearing.

E. The Board of Ethics shall issue an advisory report and recommendation within thirty (30) days of the conclusion of the hearing.

G. The hearing shall be conducted informally. Witnesses shall be sworn by the presiding officer of the Board of Ethics or other official authorized to administer oaths. The officer or employee shall have the right to counsel and the right to present evidence and witnesses and to cross-examine witnesses. The Michigan Rules of Evidence and Civil Procedure shall not apply. Insofar as practical, hearings shall follow the Administrative Procedures Act, Act No. 306 of the Public Acts of Michigan of 1969, being MCL 24.201, et seq. A written or electronic record shall be kept of the proceedings. The Board of Ethics shall not have subpoena power.

### **Section 2-378. Advisory Opinions.**

A. Requests for advisory opinions shall be filed with the City Attorney and state the request in detail. The request shall be in writing and signed. The City Attorney shall examine the request and if in proper form and within the purview of the Board, forward the request to the Board of Ethics for an opinion. The City Attorney shall advise the Board of Ethics in writing of any request not forwarded and the reason for the denial.

B. The Board of Ethics may make such informal investigation of the facts and issues raised by the request as the Board deems advisable. The Board shall render its opinion with thirty (30) days of receiving the request. The Board of Ethics may reject a request for advisory opinion if the Board, in good faith, believes the request to be in bad

faith, for improper purposes, frivolous, of only minor consequence, or has been effectively ruled on or settled by past actions of the Board of Ethics, a City Ordinance, or other law.

C. If the City officer or employee is the subject of an advisory opinion and has received a copy of the opinion, his or her actions shall be prima facie legal and ethical if he or she conforms to the opinion. This section shall not apply to a criminal act.

D. Advisory opinions may not be used for any purpose not specifically authorized by this article. Opinions of the Board shall not be binding but shall be advisory only.

**Section 2-379. Referral for Agency Investigation.**

The Board of Ethics may refer any alleged violation or incident to the appropriate law enforcement office or agency at any time for investigation. If any matter has been placed with a law enforcement agency for investigation, the Board of Ethics shall not proceed with any hearing concerning the same matter and/or facts until the conclusion of the investigation.

**Section 2-380. False Complaints.**

If the Board of Ethics finds that a willfully false complaint has been filed, it may recommend that a perjury investigation be conducted by the appropriate agency.

**Section 2-381. Prospective Application.**

The Board of Ethics shall only investigate or consider conduct or issues which occur after the effective date of this ordinance and the Standard of Conduct Ordinance.

**Section 2-382. Other Discipline.**

The report and recommendation issued by the Board of Ethics shall not bind or limit the action that can be taken by the officer's or employee's supervisor. The request for a hearing shall not stay the any discipline, suspension or discharge. However, the officer ordering the discipline, suspension or discharge may reconsider that matter after having the benefit of the report of the Board of Ethics. The City Council and any officer or employee shall not be obligated to request action by the Board of Ethics prior to taking any other action allowed by law.

**Section 2-383. Other Action.**

The Board of Ethics shall hold any proceedings in abeyance in the event any complainant, party or person involved in a complaint to the Board of Ethics is currently involved in any suit, grievance or case involving the same matter and/or fact until the other proceeding is finally determined including any appeals.

**Section 2-384. Public Meetings and Records.**

All meetings and hearings of the Board shall be open to the public and shall be subject to the Open Meetings Act, Act No. 267 of the Public Acts of Michigan of 1967, being MCL 15.261, et seq. The records of the Ethics Board shall be public documents subject to disclosure under the Freedom of Information Act, Act No. 1 442 of the Public Acts of Michigan of 1976 being MCL 15.231, et seq.

**Section 2-385. Administrative Assistance.**

A. The City Clerk shall act as Secretary of the Board of Ethics and keep the files and records of the Board of Ethics.

B. All governmental bodies and departments shall assist the Board of Ethics, the City Attorney's Office and any other law enforcement department or agency in investigating any complaints regarding possible violations of the Standard of Conduct Ordinance by City officers or employees.

C. The City Attorney shall act as legal advisor to the Board of Ethics.

**Section 2-386. Annual Report.**

The Board of Ethics shall file an annual report with the City Clerk in July of each year. The report shall be a public record and shall be delivered to the City Council and all department heads. If requested by the City Council, the Board of Ethics shall appear in person and report to the City Council.

**SECTION 2. REPEAL.**

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**SECTION 3. SAVING CLAUSE.**

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**SECTION 4. SEVERABILITY.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional

or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**SECTION 5. IMMEDIATE EFFECT.**

To preserve the public peace, health, welfare and safety, it is necessary that this Ordinance become immediately operative. It is, therefore, declared to be an emergency measure to take effect immediately.

**SECTION 6. ADOPTION.**

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the 19<sup>th</sup> day of December, 2000 and ordered to be given publication in the manner prescribed by law.

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LEVON G. KING, Mayor  
City of Allen Park

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BEVERLY J. KELLEY, City Clerk  
City of Allen Park