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26.01 DECLARATION OF POLICY

It is declared that high moral and ethical standards among city officials and employees are essential to the conduct of good representative government and that a code of ethics for the guidance of public officers and employees will help them avoid conflicts with improved standards of public service and will promote and strengthen the confidence of the residents of this city in their public officers and employees.

26.02 RESPONSIBILITY OF PUBLIC OFFICE

Public officials and employees are agents of public purpose and hold offices for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and carry out impartially the laws of the nation, state, and municipality and to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in their affairs should be such as to foster respect for all government.

26.03 DEDICATED SERVICE

- (1) All officials and employees of the City of Wisconsin Rapids should be loyal to the objectives expressed by the electorate. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
- (2) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or conscience or by officially recognizing confidentiality of their work.
- (3) This section is not intended in any way to prohibit free and open discussion and expression of opinions on controversial matters while discussing programs and objectives of the city.

26.04 FAIR AND EQUAL TREATMENT

- (1) Use of Public Property. No official or employee shall request or permit the unauthorized use of city-owned vehicles, equipment, materials, or property for personal convenience or profit.
- (2) Obligations to Citizens. No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

26.05 CONFLICT OF INTEREST

- (1)
 - (a) Financial and Personal Interest Prohibited. No official or employee, whether paid or unpaid shall engage in any business or transaction in which he or she has a personal, direct or indirect, financial interest which is incompatible with the proper discharge of his or her official duties.
 - (b) Citizens who serve as public officials or public employees retain their rights as citizens to interests of a personal or economic nature; standards of ethical conduct for public employees and public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material.
- (2) Definitions.
 - (a) Financial Interest. Any interest which shall yield directly or indirectly a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the office or employee.
 - (b) Persons. Any person, corporation, partnership, or joint venture.
- (3) Specific Conflicts Enumerated.

- (a) Incompatible Employment. No official or employee shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair said official or employee's independence or judgement or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.
- (b) Disclosure of Privileged Information. No official or employee may use or disclose privileged information in the course of or by reason of his or her official position or activities in any way that could result in financial gain for himself or herself or for any other person.
 - (1) Definitions:
 - (a) Privileged Information. Information obtained under government authority which has not become a part of the body of public information.
 - (c) Gifts and Favors. Discretion and the judgement of a reasonable, prudent person should be exercised in the acceptance or giving of gifts that may tend to influence such official or employee in the discharge of his or her duties, or grant in the discharge of his or her duties any improper favor, service, or thing of value, except campaign contributions.
- (4) Contracts with the City. No city officer or employee who in his or her capacity as such officer or employee participates in the making of a contract in which such officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the part of such official or employee, shall enter into any contract with the city unless, within the confines of Section 946.13 of the Wisconsin Statutes, the contract is awarded through a process of public notice and competitive bidding.
- (5) Disclosure of Interest in Legislation. To the extent know, any member of the common council who has a financial interest in any proposed legislation before the common council shall disclose on the records of the common council the nature and extent of such interest, prior to or during the initial discussion on said legislation. Any other official or employee who has a financial interest in any proposed legislative action of the common council and who participates in discussion with or gives an official opinion or recommendation to the common council, shall disclose on the records of the common council the nature and extent of such interest.

26.06 CAMPAIGN CONTRIBUTIONS

Campaign contributions shall be reported by all candidates for city office in strict conformity with the provisions of the Wisconsin Statutes.

26.07 ETHICS BOARD

- (1) There is hereby created an ethics board to consist of seven members. The membership of the ethics board shall consist of five citizens, one city employee, and one alderperson, with one alternate alderperson to be appointed by the common council. The human resources director shall provide necessary staff assistance to the board. The city attorney shall furnish the board whatever legal assistance is necessary to carry out its function. (MC#920)
- (2) The members of the ethics board shall be appointed by the common council from a list of the names provided by the community. The board will be drawn from as broad a base as possible. Terms of office shall be three years except that when the initial appointments are made, two members shall be appointed for one year, two for two years, and three for three years.
- (3) The ethics board shall elect its own chairman and vice-chairman and shall develop written rules of procedure which shall be submitted to the common council for approval.
- (4) The ethics board may make recommendations with respect to amendments of this code of ethics ordinance.
 - (a) Duties of the board and power of subpoena. (MC#360)
 - (1) The board shall adopt guidelines and procedures necessary to carry out the provisions of this ordinance. The board shall give prompt notice of the contents of such guidelines and procedures to officers and employees of the City of Wisconsin Rapids affected thereby.
 - (2) The board shall accept from any person, or make upon its own motion, a verified complaint in writing which shall state the name of the officer or employee alleged to have committed a violation of this chapter and which shall set forth the particulars thereof. The board shall forward within 10 days a copy of the complaint to the officer or employee who is accused. If no action on the verified complaint is taken by the board within six months, the complaint shall be void.
 - (3) Following the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis for the belief that a violation of the code of ethics has been committed or that an investigation of a possible violation is warranted, the board, may investigate the circumstances concerning the possible violation. Such investigation shall be initiated by a resolution of the board and shall state the nature and

purpose of the investigation and the actions or activities to be investigated. The board, during such investigation, is authorized to examine the income tax returns under the provisions of Section 71.11(44) of persons required to file economic interest statements under Section 9.03 of the ordinance. No preliminary investigation of the activities of any officer or employee may be initiated unless such officer or employee is notified in writing. The notice shall state the exact nature and purpose of the investigation and a statement of such person's due process rights. After the preliminary investigation, the ethics board chairperson shall prepare a staff recommendation to the board for further action.

- (4) If after such recommendation and investigation, the board finds that probable cause exists for believing the allegations of the complaint, it shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The board shall give the accused at least 20 days' notice of the hearing date. Such hearings shall be at closed session unless the accused petitions for a hearing open to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the board considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.
 - (5) During all stages of any investigation or proceeding conducted under this section, the accused or any person whose activities are under investigation shall be entitled to be represented by counsel of his own choosing.
 - (6) The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at the hearing under Section 26.07(4)(a)(4) at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.
 - (7) After an investigation has been completed, the board shall in written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists concerning any violation of the code of ethics. If the board determines that no probable cause exists, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that there is probable cause, that there has been an intentional violation of the code of ethics, it shall proceed as provided in Section 26.07(4)(c) of this ordinance after giving written notice of its action to the accused.
 - (8) The board shall have the same power to compel the attendance of witnesses and to issue subpoenas and summary processes as is granted to boards and commissions under Section 885.01, Wisconsin Statutes.
- (b) Date to Meet. No later than June 1 of each year the board shall report to the mayor and the common council concerning its actions in the preceding calendar year, including a summary of its determinations and the current and complete text of all guidelines issued by the board.
- (c) Penalties.
- (1) Employees. Where the board has determined that there is probable cause that the code of ethics has been violated by an employee the determination shall be referred to the officer by whom such employee was appointed, together with copies of any records, reports, and transcripts, in its possession or other relevant evidence, with a recommendation that such officer shall take such disciplinary action as in his judgement the facts may warrant, including: reprimand, suspension, or discharge. If the employee is in a certified bargaining unit, immediate disciplinary actions shall be made pursuant to the provisions of the labor agreement applicable to such employee or non-elected officer.
 - (2) Elected city officers. Where the board has determined that there is probable cause that the code of ethics has been violated by any elected city official, the determination shall be reported to the mayor and common council, together with copies of any records, reports, and transcripts in its possession or other relevant evidence, with a recommendation that the officer be reprimanded or that such elected officer be removed for cause by the common council, as provided for under Section 17.12, Wisconsin Statutes.
 - (3) Appointive Officers. Where the board has determined that there is probable cause that the code of ethics has been violated by any appointive officers, the determination shall be made to the mayor and common council, together with copies of any records, reports, and transcripts in its possession or other relevant evidence, with a recommendation that the appointive officers be reprimanded, or the board shall recommend that such appointive officer be suspended or removed for the cause (except officers appointed or elected by the common council who may be removed by the body at pleasure). Removal of any appointive

officer for cause by the common council may be made only by an affirmative vote of three-fourths of the members thereof.

- (4) Police and Firemen. When the board has determined there is probable cause that the code of ethics has been violated by any policeman, or fireman, or the chief of either of the police or fire department, the determination shall be made to the Police and Fire Commission, with a request that proceedings be had in accordance with provisions of Section 62.13, Wisconsin Statutes.
- (5) If charges are filed by the board with the common council, such charges shall be referred to the Finance and Property Committee for a report. If the Finance and Property Committee recommends a hearing be held on the charges, a summons shall be issued to the officer reciting the violation or violations and notifying him to appear before the common council upon a day and place to be fixed by the common council and set forth in a summons, and file his answer to the charges to stand and abide the order and judgement of the common council thereon. At least 10 days prior to the date set for the hearing, the summons shall be served by a process service officer on the accused, as provided in Chapter 801 of the Wisconsin Statutes, for the service of a summons. The officer may within 10 days from the service of the summons file with the common council his verified answer to the charges. At the hearing, evidence in support of the charges shall be presented on behalf of the board of ethics by the city attorney or a member of his staff. The accused may appear in person to answer the charges or he may appear by an attorney and shall be entitled to present such evidence in support of his position as may be relevant, competent, and material to the charges before the board. Upon completion of the hearing, judgement shall be entered finding the accused guilty or not guilty of the charges. If found guilty, he may be removed from office by a vote of three-fourths of the alderpersons entitled to seats on the common council. (MC#920)

26.08 APPLICABILITY OF CODE

When an official or employee has doubts as to the applicability of the provision of this Code, he or she should apply to the ethics board for an advisory opinion and will be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and at the applicable provisions of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary but determined by the ethics board to be more appropriate or desirable.

26.09 SEVERABILITY

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this ordinance which can be given effect without the invalid or unconstitutional provision or application.