

212.02 RULES OF PROCEDURE OF THE COMMISSION.

Rules of Procedure of the City Commission are hereby established as follows:

* * *

II.

A. Special meetings of the Commission may be called by the Mayor, Manager or any three Commissioners in accordance with the procedure set forth herein. The person or persons calling such special meeting shall execute and file with the City Clerk a written request for such special meeting, setting forth the date and time and the business to be brought before such special meeting. Upon receipt of such request, the City Clerk or Deputy Clerk shall prepare and sign a written notice of special meeting, setting forth the time and date of such meeting and the business to be considered at such meeting. The Clerk shall cause a copy of such notice to be delivered personally to each member of the City Commission, ~~or~~ left at his place of residence, or delivered by electronic mail at least eighteen hours before the time of such meeting. The Clerk shall execute or cause to be executed and shall file an affidavit setting forth the time and place that notice was given to each member of the Commission, and a copy of the notice that was given shall be attached to the affidavit, which affidavit shall be a part of the proceedings of all special meetings. Any special meeting of the Commission shall be a legal meeting regardless of the requirements set forth herein as to notice, when all members of the Commission are present, and any business may be transacted at such special meeting where all members are present. Members of the Commission ~~may~~ waive the notice of special meeting required herein by signing and filing with the Clerk such waiver, which may be in the form of a telegram, at any time within five days, either before or after the date of such special meeting, and such waivers shall be a part of the proceedings of any special meeting. Unless waivers of a special meeting are filed in accordance with this rule or all members of the Commission are present at such special meeting, no business shall be transacted at any special meeting of the Commission unless the nature of the same has been specifically stated in the notice of special meeting and notice of such meeting has been given as herein required.

B. City Commission “workshops” or “work sessions” are intended to provide opportunities for commissioners and staff to study difficult issues, gather and analyze information, and clarify problems. Workshops focus on a single topic while work sessions cover more than one topic. Although no votes for official actions take place at workshops or work sessions, they must be held in accordance with the Open Meetings Act. Except for the biennial Ethics Workshop provided for in below section 212.05(b)(16)(A), wWorkshops and work sessions may only be set by the Mayor or the City Manager and may only be cancelled by the person setting the particular workshop or work session. A workshop or work session shall not be considered a “special meeting” as is used in the City Charter or ordinances.

* * *

212.05 CODE OF ETHICS FOR CITY COMMISSIONERS.

* * *

(b) Code of Ethics .

(1) Acts in the public interest. Recognizing that stewardship of the public interest must be their primary concern, City Commissioners will work for the common good of the people of Battle Creek and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims, and transactions coming before the Battle Creek City Commission. City Commissioners shall also abide by the Model of Excellence provided for in below 212.05(c).

* * *

(4) Conduct of public meetings.

~~A.~~ City Commissioners shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

~~B. A City Commissioner and any family member claimed as a dependent of the Commissioner shall refrain from soliciting or accepting any gifts, loans or favors except that a Commissioner and a family member claimed as a dependent of the Commissioner may:~~

* * *

(15) Compliance and enforcement.

* * *

B. All City Commissioners shall have a responsibility to intervene when they learn of actions of another City Commissioner that appear to be in violation of the Code of Ethics. Upon acquiring reasonable suspicion of a violation of the Code of Ethics, Commissioners may meet this responsibility by:

1. Requesting that the Mayor, and/or Vice Mayor, personally meet with the Commissioner and notify him or her of the suspected violation, and/or;

2. Consistent with Charter section 2.9, aAny three Commissioners requiring the setting of a public hearing at a regular or special meeting of the City Commission to determine whether a violation of the Code of Ethics occurred and, if so, what sanctions shall be imposed for the violation. Such public hearing may only be cancelled with the approval of the majority of the persons who initiated the hearing being set.

C. Hearing process. If it has been determined that it is appropriate to set a public hearing as provided in subsection B.2. above, then within thirty days of the alleged violation, or within thirty days of reasonably acquiring knowledge of the alleged violation, a date for a public hearing shall be set. This time limitation shall not prohibit the introduction of evidence of a prior perceived violation that occurred more than thirty days before setting a date in order to

demonstrate a continuing pattern of conduct if it is an alleged violation of the same rule prompting the setting of a hearing. The following process shall be followed when it is determined that a public hearing should be set to determine whether a violation has occurred and what sanctions, if any, shall be imposed:

1. All Commissioners, including the one accused of a violation, shall be provided a written summary of the facts giving rise to the charge(s) against the Commissioner believed to have violated the Code of Ethics at least ten days prior to the date set for the public hearing;

2. The Mayor, or the Vice Mayor if the Mayor is either the subject of the alleged violation or is unavailable, shall preside over the public hearing. If both the Mayor and the Vice Mayor are subjects of the perceived violation, then the most tenured Commissioner shall preside over the public hearing(s). If there is a question as to which Commissioner is most tenured, then a majority vote of the remaining Commissioners shall determine who between them shall preside. The individual presiding over the hearing shall have the right to determine whether the evidence presented against the Commissioner, or in defense of the Commissioner, is germane to the charge(s) against the Commissioner and preclude its consideration if he or she determines it is not germane;

3. The hearing shall be conducted informally. Without usurping the power granted to the City Commission as a body by Charter §12.10, the City Commission is discouraged from issuing any subpoenas to compel witnesses to testify at an Ethics Hearing as provided for in this Ordinance section. Witnesses shall be sworn by the City Clerk or his or her designated representative at that meeting so long as he or she is a notary public and/or authorized to administer oaths. The City Commission, as a body, and the Commissioner accused of an Ethics Code violation shall each be entitled to have his or her own attorney present at the Special Meeting and the Ethics hearing portion of the meeting for consultation; however, there shall be no right for attorneys to make an opening statement, question witnesses, present evidence, argue whether testimony or evidence is admissible, or make a closing argument on behalf of his or her respective client. ~~There shall be no right to legal counsel at the hearing.~~ Neither the federal, nor the Michigan, Rules of Evidence or of Civil Procedure shall apply. Any Commissioner(s) shall have a right to ask questions of witnesses, except as later provided in this rule.

a. The Commissioner who is the subject of the hearing shall have a right to present witnesses in his or her defense after the presiding official has presented all evidence supporting a violation. The Commissioner who is the subject of the hearing shall not have a right to cross-examine witnesses; however, he or she may have ten minutes to present closing comments at the conclusion of evidence to respond to the evidence presented against him or her. The Commissioner who is the subject of the hearing may request and be granted not more than one additional ten-minute period for closing comments (not to exceed twenty minutes total) if a motion is made, supported, and approved by majority vote of the remaining Commissioners.

b. At the conclusion of the presentation of evidence or the closing comments of the Commissioner accused of a violation, whichever shall occur later, Commissioners (except the Commissioner who is the subject of the hearing) shall vote to determine whether or not they

believe a violation(s) of the Code of Ethics has occurred, with a simple majority vote of Commissioners present being required to make the determination.

D. The City Commission may impose sanctions on City Commissioners whose conduct does not comply with the City's ethical standards. After a majority vote finding a violation of the Code of Ethics, a second vote shall take place to determine, based upon a simple majority, what sanctions, if any, shall be imposed. Sanctions may include reprimand, formal censure, loss of committee assignment, restrictions on budget or travel, and removal from office by the governor in the manner and for the causes provided by law. Sanctions shall be determined based upon the perceived severity level (one, two, or three) of the violation, with the following guidance:

1. Level One. For a level one violation, the penalty options shall include a verbal reprimand during a conversation with the Mayor or Vice Mayor, or an additional and/or greater sanction as may be determined appropriate by the majority of the Commission voting. A violation of 212.05 (b)(3), (4)~~A.~~, (5), (7)A., (7)B., (9), (10), (11), (12)A., (12)B., (13) and/or (14)A., B. shall minimally result in a Level One sanction.

2. Level Two. For a level two violation, the penalty options shall include censure, which shall be defined as a formal resolution of the City Commission for specified conduct and/or a greater sanction as may be determined appropriate by the majority of the Commission voting. A second Level One violation within six months of a prior violation found by the Commission, or a first violation of 212.05 (b)(1), (6)A., (6)B., or (8) shall minimally result in a Level Two sanction. Depending upon the severity of the violation, a first violation of 212.05 (b)(7) may result in a Level Two sanction.

* * *

(16) Implementation.

A. As an expression of the standards of conduct for City Commissioners expected by the public, this Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when City Commissioners are thoroughly familiar with it and embrace its provisions. In order to help ensure this familiarity, a biennial Workshop shall be held after the General Election in every odd-numbered year, but not later than sixty (60) days after the General Election, for training to be provided by Michigan Municipal League (MML) and the City Attorney regarding the role and duties of a City Commissioner and the obligations set out in this Ethics Code and Model of Excellence. All Commissioners shall be obligated to attend this Workshop, or a make-up session as soon as can be practicably scheduled if he or she is unable to attend the scheduled Workshop. In addition, any Commissioners appointed to complete the vacated term of a previously elected Commissioner pursuant to Charter section 2.6 shall also be obligated to attend a make-up session of the biennial Workshop as provided for in this subsection within sixty (60) days of his or her appointment.

B. ~~For this reason, ethical standards shall be included in the regular orientations for newly elected or appointed City Commissioners.~~ Every year, at the meeting during which the Commission elects the Mayor and Vice Mayor, each City Commissioner shall sign a statement

affirming that they have read and understand the Code of Ethics for Battle Creek City Commissioners. The statement signed by each Commissioner shall be collected and retained by the City Attorney Office.

C. The Ethics Policy and Rules of Procedure Review Committee shall meet at least once, annually, no later than August, to review the Code of Ethics for Battle Creek City Commissioners. It shall provide any recommendations for amendments to the City Commission no later than the second City Commission Meeting in September.

(c) Commissioner Statement of Acknowledgment.

Model of Excellence

Battle Creek City Commission

Commissioner Statement

As a member of the Battle Creek City Commission, I agree to uphold the Code of Ethics adopted by the City Commission and conduct myself by the following model of excellence. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives, and contributions;

- Help create an atmosphere of respect and civility where individual members, City staff, and the public are free to express their ideas and work to their full potential;

- Respect the dignity and privacy of individuals and organizations;

- Respect and maintain the nature of confidential and privileged information and opinions acquired as a result of my position;

- Conduct my public affairs with honesty, integrity, fairness and respect for others;

- Avoid and discourage conduct that is divisive or harmful to the best interests of Battle Creek; and

- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.

I affirm that I have read and fully understand the Code of Ethics for Battle Creek City Commissioners.

Signature/Date

Name/Office

(Ord. 07-04. Passed 4-20-04; Ord. 12-05. Passed 7-19-05; Ord. 7-2013. Passed 5-21-13; Ord. 09-2014. Passed 1-6-15.)

DRAFT