

**CITY OF THE VILLAGE OF DOUGLAS
ALLEGAN COUNTY, MICHIGAN
ORDINANCE 04-2023**

**AN ORDINANCE TO AMEND ORDINANCE NO. 171: CODE OF ETHICS
OF THE CITY OF THE VILLAGE OF DOUGLAS, MICHIGAN.**

THE CITY OF THE VILLAGE OF DOUGLAS ORDAINS:

That the Ordinance Code of the City of the Village of Douglas, Michigan (the “Code”), Article VII. Code of Ethics is hereby amended as follows:

ARTICLE VII. CODE OF ETHICS

Secs. 31.35. Title.

This ordinance shall be referred to as the “Code of Ethics.”

Secs. 31.36. Purpose.

The purpose of this ordinance is to establish a standard of ethical conduct for public servants and employees of the City of the Village of Douglas.

Secs. 31.37. Definitions.

The following terms shall be defined as follows:

“Business entity” means a corporation, a limited liability company, partnership, joint venture, unincorporated association, sole proprietorship, trust, and any other business form.

“Confidential information” means any information and documents which are exempt from disclosure under the Michigan Freedom of Information Act, Public Act 267 of 1976, as amended or information communicated in a closed-door session under the Open Meetings Act, Public Act 267 of 1976, or under other Michigan or Federal law.

“Conflict of interest” means an interest that directly competes with or is adverse [unfavorable, disagreeable, poor, hostile, harmful, or gives the impression of such] to a public servant’s duty to the public.

“Ethics Review Committee” means the group of persons identified in Section 2-177.

“Interest” means any right, title or share, whether it is personal, financial, legal, or equitable, which is owned, held or controlled, in whole or in part, directly or indirectly, by a public servant. It does not include any ownership in a corporation acquired through

the purchase for fair market value or inheritance of less than one percent of the shares of such corporation, or of a parent, subsidiary or affiliate of such corporation, if such shares had been registered on the securities exchange pursuant to the Securities Exchange Act of 1934, as amended.

“Public body” means the City Council, and any board, authority, commission, committee, subcommittee, department, office or other agency of the City.

“Public servant” means the Mayor, a member of the City Council, administrative officers, and any other person elected or appointed to a public body of the City, regardless of whether such person receives monetary compensation.

City means the City of the Village of Douglas, a Michigan General Law city.

Secs. 31.38 Prohibited Conduct.

All public servants are prohibited from engaging in the following conduct regardless of whether a public disclosure is made:

- (a) Divulging confidential information to any person or business entity not authorized to obtain such information;
- (b) Benefiting financially from divulging confidential information.
- (c) Representing his or her personal opinion as that of the City.
- (d) Acting on behalf of the City when no authority has been given;
- (e) Soliciting or accepting any gift, loan, goods, services, except anything of nominal value, which tends to influence the manner in which the public servant performs his or her duties;
- (f) Using his or her official position to unreasonably secure, request, or grant any interest, privilege, exemption, advantage, or preferential treatment for his or her benefit or the benefit of others; and
- (g) Substantially failing to follow the City Council’s rules of procedure and exercising decorum at meetings, matters, and activities of the City.

Secs. 31.39 Disclosure.

- (a) Except as otherwise provided in this subsection (a), no public servant shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor, service, or money, for their personal convenience, their private advantage, or for a use that does not directly benefit the city. This shall not preclude a public servant from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service if the public servant has made a public disclosure of the conflict of interest as provided in this ordinance and the City Council has approved the request, use, or permitting of the use.
- (b) Except as otherwise provided in this subsection (b), no public servant shall participate in

any way in a City contract, loan, grant, rate fixing, issuance of a permit, zoning matter, or ordinance matter involving or in any way affecting a business entity in which he or she has an interest. This shall not preclude a public servant from participating in any city contract, loan, grant, rate fixing, issuance of a permit, zoning matter, or ordinance matter directly affecting a business entity in which he or she has an interest if the following has been complied with:

- (1) The public servant makes a public disclosure as provided in this ordinance.
 - (2) The public servant does not participate, in the decision regarding the City contract, loan, grant, rate fixing, issuance of a permit, zoning matter, or ordinance matter; and
 - (3) After reviewing the circumstances and the public disclosure, the City Council, or the applicable public body, determines that the city contract, loan, grant, rate fixing, issuance of a permit, or a decision regarding a zoning matter or ordinance matter is in the best interest of the City.
- (c) Except as otherwise provided in this subsection (c), no public servant shall engage in employment with, or render services for, any person or business entity which transacts business with the City or any public body of the City. This shall not preclude a public servant from engaging in employment with, or rendering services for, any person or business entity, which transacts business with the City or any public body of the City if the following has been complied with:
- (1) The public servant makes a public disclosure as provided in this ordinance; and
 - (2) After reviewing the circumstances and the public disclosure, the City Council, or the applicable public body, determines that the public servant's engaging in employment with, or rendering services for, any person or business entity, which transacts business with the City or any public body of the City does not impair or tend to impair the public servant's independence of judgment.

Secs. 31.40 Contents of Disclosure.

For any public disclosure required under this ordinance, a public servant shall disclose the following:

- (1) The identify and relationship of all of the persons and business entities involved; and
- (2) The nature of the conflict of interest.

All written public disclosures shall be signed.

Secs.31.41 Methods of Public Disclosure.

- (a) Whenever an elected official is required to make a public disclosure as provided in this ordinance, the elected official shall make it either orally on the record at a meeting of the applicable public body, or in writing and file it with the City Clerk.

- (b) Whenever any other public servant other than the ones described in subsection (a) above are required to make a public disclosure as provided in this ordinance, it shall be made in writing to the City Manager.
- (c) All public disclosures, whether oral or written, shall be provided to the City Clerk or City Manager within five (5) days of the public disclosure. Any oral public disclosure shall be transcribed in writing and forwarded as provided above.
- (d) All public servants shall make a public disclosure pursuant to this ordinance ten (10) days before the decision is to be made by the applicable public body or as soon as reasonably possible.

Secs.31.42 Enforcement and Penalties.

- (a) All matters regarding this ordinance shall be directed to the Ethics Review Committee. The Ethics Review Committee shall consist of the City Mayor, Clerk, and the Chief of Police, unless one of these persons is the subject of an investigation. The Ethics Review Committee is authorized to take whatever action is consistent with this ordinance.
- (b) Once the Ethics Review Committee has received a complaint, request for information, or public disclosure, it shall make a determination whether to proceed. If the Ethics Review Committee makes a determination to proceed, it shall notify in writing the affected public servant of the charges underlying the determination to proceed. The public servant shall have an opportunity to attend a hearing before the Ethics Review Committee. The Ethics Review Committee shall schedule the hearing within thirty (30) days of the public servant's request. If the Ethics Review Committee determines to proceed, it shall make a recommendation to the City Council regarding the matter, which includes, but is not limited to, further review and investigation, or a determination as to enforcement. Enforcement may include: civil prosecution, criminal prosecution or both. Enforcement may also include removal from office if the public servant is guilty of official misconduct, willful neglect of duty, extortion, habitual drunkenness, or has been convicted of being drunk, or convicted of a felony as provided in MCL 168.327. The Ethics Review Committee's recommendation shall be forwarded to the City Council. If the recommendation from the Ethics Review Committee involves any Councilmember of the City Council, such Councilmember shall be disqualified from voting on and participating in any discussion on the recommendation of the Ethics Review Committee. The City Council shall review the recommendation at its next meeting and shall vote to do any of the following: accept, reject, or send the recommendation back to the Ethics Review Committee for further research and consideration. The City Council must approve a motion to either accept or reject the Ethics Review Committee's recommendation by a vote of five (5) members of the City Council. If a motion to either accept or reject the Ethics Review Committee's recommendation does not obtain a vote of five (5) members of the City Council, the recommendation will be sent back to the Ethics Review Committee for further research and consideration. If the recommendation is accepted by the City Council, it shall be binding and have an immediate effect on the public servant unless further action is required by law. The effect of the City Council rejecting the Ethics Review Committee's recommendation will be to dismiss the complaint or resolve in finality the request for information or public disclosure. If the determination of enforcement involves removal from office, the City Council shall prepare a report which details the matter and shall send it to the Governor for a determination as provided in MCL 168.327. If the determination of enforcement

involves civil or criminal prosecution, it shall be referred to the City Attorney for further action. To the extent authorized or permitted by law, the city shall collect its out-of-pocket costs (including attorney fees) involving civil or criminal prosecution from a public servant who has violated this ordinance.

Secs. 31.43 Advisory Opinion.

The City Council, the Ethics Review Committee, and any public servant with the consent of either the City Council or the Ethics Review Committee may request that the City Attorney provide an advisory opinion interpreting the effect of this ordinance generally, or on issues directly relating to conduct in a particular situation.

Secs. 31.44 Validity.

The invalidity of any section, sentence, clause, or any other part of this ordinance shall not affect the validity of any other part of this ordinance.

Secs. 31.45 Effective Date.

This ordinance was adopted by the City Council at its April 17, 2023, regular meeting, and will take effect on May 18, 2023.

Ordinance Adopted: April 17, 2023

Ordinance Effective Date: May 18, 2023

CITY OF THE VILLAGE OF DOUGLAS

By _____
Jerome Donovan
City Mayor

By _____
Pamela Aalderink
City Clerk