

ORDINANCE # 417
AN ORDINANCE CREATING CHAPTER 2,
ARTICLE 1, DIVISION 1, SECTIONS 2-1 THROUGH 2-12
OF THE CODE OF ORDINANCES OF THE CITY OF MILTON
ESTABLISHING A CODE OF ETHICS

WHEREAS, the Common Council of the City of Milton is committed to a properly operating democratic government responsible to the people of the City of Milton and to the ethical conduct of all city officials and employees; and

WHEREAS, the Common Council of the City of Milton, having determined that it is appropriate to enact a Code of Ethics to provide standards for ethical conduct on the part of its officials and employees as well as to provide a mechanism for enforcement of those ethical standards.

NOW, THEREFORE, the Common Council of the City of Milton do ordain as follows:

Section I: Chapter 2, Article I., Division 1 of the Code of Ordinances of the City of Milton is hereby created to read as follows:

Division 1. CODE OF ETHICS

Sec. 2-1. DECLARATION OF POLICY. The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. To assist in attaining these goals, there is established a code of ethics for all City officials, including members of boards, committees, and commissions, and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions which are incompatible with the best interests of the City and by requiring such officials and employees to disclose personal interests, financial or otherwise, in matters affecting the City. The purpose of this code and the rules and regulations established hereby are declared to be in the public interest.

Sec. 2-2. DEFINITIONS. The following definitions apply to this division:

- a. Financial Interest. Any interest, which yields directly a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
- b. Persons. Any person, corporation, partnership, or joint venture.

- c. Official duty or act. One done by an officer in his or her official capacity under color and by virtue of his or her office. An authorized act.
- d. Violation. Violation includes any unlawful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any willful or corrupt failure, refusal, or neglect of an officer to perform any duty enjoined by law on him or her.
- e. City. The City of Milton.
- f. Common Council. Common Council of the City of Milton.

Sec. 2-3 RESPONSIBILITY OF PUBLIC OFFICE. Public officials and employees hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state; to observe the highest standards of law in the exercise of the powers and duties of their office; to impartially carry out the laws of the nation, state, and city; to discharge faithfully the duties of their office regardless of personal considerations; and to recognize that the public interest must be their prime concern.

Sec. 2-4 DEDICATED SERVICE. Appointive officials and employees shall adhere to the rules of work and performance standards established for their positions. Officials and employees shall not exceed their authority or breach the law or ask others to do so. They shall cooperate with public officials and employees from other governmental bodies, agencies, and jurisdictions unless prohibited from doing so by law.

Sec. 2-5 FAIR AND EQUAL TREATMENT. No official or employee shall use or permit the use of city- owned vehicles, equipment, materials, or property unless authorized to do so. All officials and employees are obligated to give the same consideration to matters and persons in like or similar circumstances and may not arbitrarily or capriciously treat one person differently from another.

Sec. 2-6 CONFLICT OF INTEREST.

(a) Financial and Personal Interest Prohibited. No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to any direct financial interest which is incompatible with the proper discharge of his or her official duties in the public interest contrary to the provisions of this section or which tends to impair his or her independence of judgment or action in the performance of his or her official duties.

(b) Specific Conflicts Identified.

1. Incompatible Employment. No official or employee shall engage in or accept private employment or render service, for private interest, when

such employment or service conflicts with the proper **discharge** of his or her official duties or would tend to impair such official's or employee's independence of judgment or action in the performance of such duties, unless otherwise permitted by law and unless disclosure is made as herein provided.

2. Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, including information obtained in a closed session meeting, nor shall such official or employee use such information to advance the financial or other private interest of such official or employee or others.
3. Gifts and Favors. Discretion and the judgment of a reasonable, prudent person shall be exercised in the acceptance of giving of gifts which 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 under sec. 2-8.
4. No public official, subject to this code, shall solicit private donations or funds for any City-related purpose unless authorized to do so in his or her official capacity under color of law or by virtue of his or her office. Any public official who receives funds for any City-related purpose shall file a report of the receipt and expenditure of such funds with the City Clerk within 30 days thereof. For purposes of this subsection, "City-related purposes" shall mean those purposes authorized by the Common Council of the City of Milton, its boards, commissions, or committees. Nothing contained herein shall limit the statutory powers and authority of any public official, nor shall the provisions of this subsection prohibit the private, confidential solicitation of funds, by any person or public official, for any charitable, campaign, or other private purpose.
5. No Common Council member, during his/her term of office, or one year thereafter, is eligible for any employment with the City of Milton, whether by regular employment or contractual services. Exceptions to this policy will be as follows:
 - a. Where a Common Council member is appointed to fill a vacancy for another elected office or is elected;
 - b. Where a Common Council member serves as a poll worker or at any other position which has a stipend of less than \$1,000 a year; or
 - c. Where a Common Council member is appointed to a post with an 80% majority consent of the Council.

- d. Contracts with the City. No City official or employee, who in his or her capacity as such official or employee participates in the making of a contract in which such person 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 limitations of Sec. 946.13, Wis. Stats., the contract is awarded through a process of public notice and competitive bidding.
 - e. Disclosure of Interest in Legislation. To the extent known, 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.
 - f. 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.
- (c) Violation of State Ethics Code. No City official or employee shall engage in any activity in violation of the provisions of Sec. 19.59(1), Wis. Stats., which are incorporated by reference.

Sec. 2-7 DISCLOSURE OF CERTAIN FINANCIAL INTEREST.

- (a) A person elected, appointed, or hired for any office or position of employment or appointed to any board, commission, or authority set forth below shall file initial and amended statements of economic interest as required by the provisions of this section.

ELECTED OFFICIALS

Mayor
Municipal Judge
Common Council Members

APPOINTED OFFICIALS

City Attorney
City Clerk / Deputy Treasurer
Finance Director
Director of Public Works
Police Chief

BOARDS

Board of Review
Ethics Board
Zoning and Planning Board of Appeals

COMMISSIONS
Police Commission
Fire Commission

AUTHORITIES
Community Development Authority

- (b) Within seven days after such person becomes a candidate for any elective City office enumerated in sub. (a) above, or prior to appointment to such office enumerated in sub. (a) above, such person shall file a statement of economic interest with the City Clerk.
- (c) Form of Statement.
1. Interest in Land. A person filing any statement of economic interest under this section shall file the statement on a form prescribed by the Ethics Board and shall supply the following information to the Board: a description of all parcels of real estate within the City and adjoining towns or villages in which the person owns any interest, including an option to purchase, if such property is to be considered for rezoning or purchase by any entity of government, but exempting homestead property.
 2. Corporate Interests. All candidates for a political office of the City and all appointive positions enumerated in sub. (a) above shall identify all corporate interests in any business organization, either as an owner, part owner, partner, or silent partner, in which such individual owns more than 2 percent of the outstanding stock or more than 2 percent of any other business ownership that is doing business with the City in an amount in excess of \$5,000.00 annually.
- (d) Amended Statements. Any person required to file a statement hereunder shall not be required to file an amended statement unless that person undergoes a change in those economic interests that are required to be disclosed by this section. Such person shall file the amended statement in the manner prescribed by sub. (b) above within seven days of the date of any change in circumstances requiring filing thereof.
- (e) Elected and appointed officials and employees shall comply with the provisions of this section within 30 days after the requirements hereof are imposed upon such office or position.

Sec. 2-8 CAMPAIGN CONTRIBUTIONS. Campaign contributions shall be reported by all candidates for City office in conformity with the Wisconsin Statutes.

Sec. 2-9 ETHICS BOARD.

- (a) There shall be an Ethics Board which shall consist of five members: one **alderperson**; one City officer or employee; and four citizens, one of whom shall be an alternate who shall vote only in the absence or abstention of a member. Each member shall be appointed by the Mayor and subject to confirmation by the Common Council. The citizen members shall be chosen from the private sector and shall not be affiliated with City government in any capacity, including, but not limited to, employment (including employment for which the salary is in any way funded by or through the City), appointment, or election. **The term of office of citizens shall be three years, one appointment to be made annually beginning after the third year of the origin of the Ethics Board. Maximum number of years for any citizen serving on the Ethics Board will be up to six years. The term of office of the alderperson and City officer or employee shall be one year each.** Ethics Board shall elect its own chairman and vice chairman and the City Attorney shall furnish the Board whatever legal assistance it deems is necessary to carry out its functions. If any member of the Ethics Board petitions the Board for a hearing and advice regarding his or her own conduct, such member shall not be eligible to sit in his or her own case, and the alternate shall substitute therefor when the need arises.
- (b) The jurisdiction of the Ethics Board is limited to acting within the scope of subs. (d) and Sec.2-10 of this code.
- (c) The Ethics Board may recommend amendments of this code to the Common Council.
- (d) Upon the sworn complaint of any person alleging facts, which, if true, would constitute a violation of this section, the Board shall conduct a "due process" public hearing unless a private hearing is requested by the person accused and, in written findings of fact and conclusions based thereon, make a determination concerning the complaint. **If the Ethics Board finds there is probable cause a person has violated a provision of this section, it shall refer the matter to the City Attorney, District Attorney, or Common Council for appropriate action. In making such referral, the Ethics Board shall attach the findings and conclusions as well as such documents as it decides are germane to the issue; the statement of determination shall not be admissible as evidence in any court.**
- (e) Prior to the Ethics Board being convened and conducting a public hearing as provided for in paragraph (d) above, the written complaint of the person alleging facts which constitute a violation shall be reviewed by the City Administrator, Chief of Police, and City Attorney to ensure that the complaint alleges facts which, if true, would constitute a violation or improper conduct under the provisions of this document or state statute. If the City Administrator, Chief of Police, and City Attorney determine that sufficient facts have been alleged, the complaint will be sent to the Ethics Board. If the City Administrator, Chief of Police, and City Attorney determine that the complaint does not allege sufficient facts, the **City Administrator** confer with the complaining party and request the complaining party to either supplement the complaint with additional facts or

inform the complaining party that the complaint will not be presented to the Ethics Board for consideration.

(f) A majority vote of the entire membership of the Ethics Board shall be required to make a finding of probable cause.

2-10 APPLICABILITY OF CODE. When an official or employee has doubt as to the applicability of a provision of this code, such person may apply in writing to the Ethics Board for an advisory opinion. The official or employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of the code before such advisory decision is made. This code shall apply 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.

2-11 PENALTY AND SANCTIONS. Violation of any provision of this section may constitute cause for suspension, removal from office or employment or forfeiture as provided in Sec. 1-14.

2-12 SEVERABILITY. If any provision of this division is held invalid or unconstitutional, or if the application of this division to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this division which can be given without the invalid or unconstitutional provision or application.

Section II. This Ordinance shall take effect and be in force from and after its passage and publication.

Approved by the Common Council of the City of Milton this _____ day of _____, 2016.

By:

Anissa Welch, Mayor

Attest:

Elena Hilby, City Clerk

1st Reading:
2nd Reading:
3rd Reading:
Date Adopted:

Effect of Ordinance: Creates a Code of Ethics for officials and employees of the City of Milton.